

22.08.2023
Item No.03
RP
Ct. No.7

WPA 6026 of 2020
Pankaj Kumar Das
Vs.
Bank of Baroda & Ors.

Mr. Victor Chatterjee
Mr. Barnamoy Basak
Mr. Soudeep Chakraborty
... for Petitioner
Mr. Suchayan Banerjee
Ms. Sanjana Sinha
... for respondent bank

1. Affidavit-of-service filed in Court today is kept on record.
2. The petitioner has prayed for release of all terminal dues as mentioned in paragraph 37 of the writ petition. After going through paragraph 37 of the writ petition, this Court finds that the petitioner prayed for release of interest on gratuity; interest on leave encashment; additional retirement benefit and interest thereon; difference of full and 2/3rd pension from 1st April, 2012 to June 2020 together with interest thereon; balance of commutation of pension and interest thereon etc. It is not in dispute that pursuant to an order dated 8th April, 2022 passed by a co-ordinate Bench interest on gratuity and interest on leave encashment have already been released in favour of the petitioner.

3. The grievance of the petitioner is primarily with regard to the differential amount of full and 2/3rd pension and additional retirement benefit.
4. Learned advocate representing the respondent/bank refers to regulation 33 of the Bank of Baroda (Employees') Pension Regulations, 1995 (for short '1995 Regulations') and submits that the competent authority of the bank has the power to award pension less than the full compensation pension admissible under the 1995 Regulations upon prior consultation with the Board of Directors before passing such an order. He refers to a report filed in this writ petition wherefrom it appears that the authority after seeking concurrence of the Board of Directors in terms of Regulation 33 of the 1995 Regulations paid compulsory retirement pension at the rate of 2/3rd of the full pension.
5. Mr. Chatterjee, learned advocate representing the petitioner draws the attention of the Court to Bank of Baroda Officer Employees' (Conduct) Regulations, 1976 (for short "1976 Regulations") and refers to the Implications of the Penalties on Terminal Benefits, more particularly, the note appended thereto which states that in case an officer has reached superannuation date and Regulation 20(3)(III) of 1979 Regulations has been invoked and

punishment is imposed thereafter, there would be a very marginal effect on the terminal benefits as punishment would be imposed upon the officer as on the last date of his service. By laying special emphasis on the said note Mr. Chatterjee would contend that since the order of punishment has been passed after the date of superannuation, the petitioner is entitled to full pension in terms of the said note.

6. It is evident from the report that the competent authority passed the order after seeking concurrence of the Board to pay 2/3rd pension to the petitioner. Such decision of the competent authority is not under challenge in this writ petition. In view thereof, no relief can be granted to the petitioner in this writ petition. However, the petitioner is left free to challenge such decision of the competent authority in accordance with law, if so advised.
7. With regard to the additional retirement benefit, it appears from Regulation 4(h) of the 1976 Regulation that additional retirement benefit is not payable in case of compulsory retirement.
8. That apart from the relief claimed in the writ petition, being WP 28284 (W) of 2014, it is evident that the petitioner had prayed for release of the additional retirement benefit and such prayer was

not pressed by the petitioner when the said writ petition was moved on 27th July, 2018. It appears from the said order that the petitioner restricted his claim only with regard to leave encashment. Therefore, the petitioner cannot be allowed to claim additional retirement benefit in this writ petition as such claim was not pressed by the writ petitioner in the earlier writ petition. In view thereof, such relief is barred by the principles of constructive res judicata.

9. In the result, the writ petition stands **dismissed** with the liberty as aforesaid.

(HIRANMAY BHATTACHARYYA, J.)