

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1495 OF 2023

Sharad Venkatesh Khasnis

....Petitioner

V/S

The New India Assurance Company Ltd. & Anr.

....Respondents

...

Mr. Milan Topkar i/b Ms. Pavitra Manesh for the Petitioner.

Mr. V.Y. Sanglikar for Respondents.

...

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATE : 17TH FEBRUARY 2023.

P.C.:

1 The learned Counsel for the Petitioner submits that the Petitioner seeks declaration that the communications dated 18 October 2019 and 4 July 2022 are illegal. Under the said communication dated 30 March 2012, it is intimated that the resignation has been accepted. The Petitioner is relieved from service from the close of office hours on 30 March 2012.

2 Under the communication dated 18 October 2019 the Petitioner is communicated that the Petitioner does not qualify for the pensionary benefits. Similar communication is made under a letter dated 4 July 2022. The learned Counsel for the Petitioner submits that the Petitioner had rendered continuous service from 26 September 1978 till the date of his

superannuation i.e. 31 October 2017. Due to domestic difficulties the Petitioner was constrained to serve a notice dated 1 February 2012 for retirement with effect from 31 March 2012. The Petitioner gave three months notice. According to the learned Counsel for the Petitioner the Petitioner would be entitled for pension. The representations have been given to reconsider the decision communicated vide impugned letter dated 18 October 2019. The representation has been negated by the Respondent. The same is illegal. A person who has rendered such a continuous service is entitled for pension.

3 The learned Counsel for the Respondents submits that the Petitioner had resigned from service and resignation entails forfeiture of the past service. The learned Counsel for the Respondents relied upon the judgment of Apex Court in case of **BSES Yamuna Power Ltd. Vs. Ghanshyam Chand Sharma** reported in **AIR 2020 SC (Civil) 895** and another judgment of the Apex Court in a case of **Senior Divisional Manager, Life Insurance Corporation of India vs. Shree Lal Meena** reported in **AIR 2019 SC 3510**. The learned Counsel further submits that the Petitioner has accepted provident fund amount and he is not an optee under the pension scheme. The claim of the Petitioner is stale one. In the year 2012 only his resignation was accepted.

4 We have considered the submissions.

5 It appears from the record that the Petitioner's resignation has been accepted by the Respondents and the same has been communicated under letter dated 30 March 2012. The resignation entails forfeiture of past service. The Apex Court in a case of **BSES Yamuna Powar Ltd.** (supra) has observed that employee would not be entitled to the pensionary benefits as his past service stands forfeited upon resignation.

6 In the present case also the Petitioner has tendered resignation and the same has been accepted. It would not be appropriate on the part of the Petitioner to claim that the Petitioner retired on attaining the age of superannuation on 31 October 2017. In light of that no case is made out, the Writ Petition is dismissed. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)

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KATKAM
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