

232
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33263-2019(O&M)
Date of decision: 18.04.2024

Ram Pal Singla

...Petitioner

VERSUS

Haryana State Cooperative Apex Bank Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mrs. Sharmila Sharma Advocate, for the petitioner.

Mr. Vivek Saini, Advocate, for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing order dated 25.06.2012 (Annexure P-1) with a further prayer to direct the respondents to treat the resignation of the petitioner as request for retirement in view of the fact that he has put more than 31 years of unblemished service and his application for premature retirement was kept pending and he was forced to resign under compelling circumstances. It was further prayed that the respondents be directed to release retiral benefits i.e. 300 days leave encashment and monthly fixed medical allowance to the petitioner which has

been withheld since June, 2012 alongwith interest @ 12% per annum till realization.

2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the petitioner was working as a General Manager in the respondent-Bank and he had applied for voluntary retirement on 21.06.2012 under the provisions of Rule 43 (iv) of the Haryana State Cooperative Apex Bank's Staff Service (Common Cadre) Rules, 1988 vide Annexure R-1 but his claim for voluntary retirement was not considered by the respondent-Bank with *mala fide* reasons as they never wanted the petitioner to go to some other Bank. Thereafter, since the respondent-Bank did not consider the claim of the petitioner for grant of voluntary retirement, the petitioner resigned on 22.06.2012 vide Annexure R-2 as he had no option other than to resign w.e.f 25.06.2012. Thereafter, he joined as Managing Director in the Sikkim State Cooperative Bank Limited Gangtok on 26.06.2012. She submitted that it was because of the inaction on the part of the respondent-Bank which forced the petitioner to resign and therefore, all the pensionary benefits have been forfeited. She submitted that a direction may be issued to the respondent-Bank to accept the voluntary retirement of the petitioner and to grant all the retiral benefits due to the petitioner.

3. On the other hand, learned counsel appearing on behalf of the respondent-Bank while referring to the reply and the Annexures attached with the reply filed by the Bank submitted that the petitioner himself had applied for voluntary retirement vide Annexure R-1 on 21.06.2012 and on the very next date, he submitted his resignation because he was in hurry since he wanted to join some other Bank and his resignation was accepted on 25.06.2012 and

thereafter, he joined as a Managing Director in the Sikkim State Cooperative Bank Limited Gangtok on 26.06.2012. He submitted that there was no force or coercion to the petitioner and it was his own voluntary act to have applied for resignation on the very next date and therefore, the petitioner cannot now turn around after resigning from the post and claim the benefit of voluntary retirement. He also submitted that even the petitioner furnished an affidavit on 25.06.2012 vide Annexure R-3 whereby he again stated that he has resigned from the post of General Manager w.e.f. 25.06.2012 and that he has no objection if all the outstanding dues/amount recoverable from him i.e. House Building Loan, PLOD, computer loan, conveyance loan, SETCs and loans from DCCBs in personal capacity etc. alongwith interest may be adjusted/recovered from the dues payable to him.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner was working as a General Manager in the respondent-Bank. Vide Annexure R-1 dated 21.06.2012, he applied for voluntary retirement w.e.f. 25.06.2012. Thereafter, on the very next date i.e. on 22.06.2012 vide Annexure R-2, he gave another request to the respondent-Bank for submission of resignation instead of voluntary retirement and a perusal of the aforesaid letter would show that he stated that it is in continuation of his earlier request dated 21.06.2012 for voluntary retirement and that now he has decided to resign from the post of General Manager and his resignation may be accepted w.e.f. 25.06.2012. A perusal of Annexure R-3 would show that an affidavit has been furnished by the petitioner dated 25.06.2012 whereby he again stated by way of an affidavit duly notarized that he has resigned from the post of General Manager w.e.f. 25.06.2012. It is not in dispute that on the very

next date i.e. on 26.06.2012, the petitioner joined as Managing Director in the Sikkim State Cooperative Bank Limited Gangtok. The argument which has been raised by the learned counsel for the petitioner that he was forced to do the aforesaid act of resignation has been specifically rebutted by the learned counsel for the respondent-Bank during the arguments and also in the reply filed by the respondent-Bank.

6. After hearing the learned counsels for the parties, this Court is of the considered view that considering the facts and circumstances where the petitioner had joined the other Bank on the very next date i.e. on 26.06.2012, the question as to whether the petitioner was forced to resign especially in view of the fact that the resignation was submitted only after one day of the submission of the voluntary retirement is purely a disputed question of fact which cannot be gone into by this Court under Article 226 of the Constitution of India.

7. Consequently, the present petition is dismissed

(JASGURPREET SINGH PURI)
JUDGE

18.04.2024
rakesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No