2024:DHC:1724-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 27.02.2024*

\+ **<u>LPA 725/2022 and CM APPL. 55127/2022</u>**

GENERAL MANAGER UCO BANK ..... Appellant

Through: Mr Sarfaraz Khan with Mr Mirza Amir Baig and Mr Abdul Wahid, Advocates.

versus

SMT. ADITI GAUR AND ANR ..... Respondents

Through: Mr Ajai K. Srivastava, Advocate for respondent no.1.
Ms Anju Gupta with Mr Bhuvan Goel, Advocates for respondent no.2/UOI.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE AMIT BANSAL
[Physical Hearing/Hybrid Hearing (as per request)]

<u>RAJIV SHAKDHER, J.</u>: (ORAL)

1. This appeal is directed against the judgment dated 24.11.2022 passed by the learned Single Judge.

2. The central issue that arises for consideration is whether respondent no.1, i.e., the contesting respondent was entitled to be accorded the benefit of the pension scheme framed by the appellant *via* circular dated 01.01.2013.

3. The record shows that respondent no.1 was inducted into

employment, by the appellant/Bank, as a Probationary Officer (PO), in 1977.

3.1 The record also reveals that respondent no.1 applied for voluntary retirement with effect from 30.10.1998, which was accepted on 26.10.1998.

4. It is not in dispute that the appellant/Bank had launched pension schemes on various occasions.

4.1 The first time around, the option for availing pension was embedded in the UCO Bank (Employees) Pension Regulations, 1995 [in short, "Regulations"], which was notified on 29.09.1995.

4.2 The second time employees of the appellant/bank were granted such an option was on 20.08.2010 *via* a circular of even date. This circular extended pension to employees who were in service before 29.09.1995 and could not opt for pension earlier.

4.3 The third time such an option was given to employees, which included those employees who were in service before 29.09.1995 but had exited the appellant/Bank through the voluntary retirement route, was in the beginning of 2013 *via* circular dated 01.01.2013.

4.4 On 17.05.2018, the appellant/bank extended pension through a circular of even date to those employees who were in service any time before 29.09.1995 and had been compulsorily retired or had expired after compulsory retirement, *albeit*, after 29.09.1995 but before 27.04.2010.

5. It is not in dispute that respondent no.1 did not opt for pension when the Regulations dated 29.09.1995 were issued. It is also not in dispute that the respondent no.1 applied for pension when circular dated 20.08.2010 was issued by the appellant/bank.

5.1 According to the appellant/bank, as per the terms of the circular

20.08.2010, the option for pension was not available to the persons who had exited the appellant/bank *via* the voluntary retirement route.

6. We may note here that it is the contention of respondent no.1 that since the expression used was "retired", it ought to have included those who had exited the organization by taking recourse to the voluntary retirement route.

7. Be that as it may, what is not in dispute is that the circular dated 01.01.2013 extended the option of drawing pension even to those employees who had taken voluntary retirement to exit from the appellant/bank.

8. The learned Single Judge has returned a finding of fact that the application which was preferred by respondent no.1 under the circular dated 20.08.2010 was rejected only on 24.05.2014, after the circular dated 01.01.2013 kicked in.

9. To be noted, the application was lodged by respondent no.1 with the appellant/bank on 13.10.2010.

10. The learned Single Judge, having regard to the aforesaid facts, has concluded that respondent no.1 should be accorded the benefit of the circular dated 01.01.2013 as the application preferred by her under the circular dated 20.08.2010 remained pending after the circular dated 01.01.2013 was issued.

11. Mr Sarfaraz Khan, learned counsel, who appears on behalf of the appellant, contends to the contrary.

11.1 It is Mr Khan's submission that since respondent no.1 had not applied under the scheme as stipulated in the circular dated 01.01.2013, she cannot claim benefit of pension extended under the said scheme.

12. We are unable to agree with the submission advanced by Mr Khan.

In our opinion, since the application preferred by respondent no.1, pursuant to circular dated 20.08.2010, was pending, she, possibly, could not have applied under the circular dated 01.01.2013. If any such step had been taken, she would have been met with the objection that she was attempting to straddle in two boats.

13. In any event, since there is no dispute about the fact that respondent no.1 met the eligibility criteria provided in the circular dated 01.01.2013, we see no reason as to why the pending application cannot be considered under the said circular. Therefore, we need not detain ourselves and address an issue that the learned Single Judge also, perhaps, rightly chose not to delve into, which is, whether, in any event, respondent no.1 was eligible even under the circular dated 20.08.2010. Respondent no.1, we are told, is about 74 years of age today.

14. Thus, taking a holistic view of the matter, it is our opinion that no interference is called for with the impugned judgment.

15. The appeal is, accordingly, dismissed.

16. The operative directions contained in paragraph 11 of the impugned judgment will apply to the parties before us.

17. The interim order dated 19.12.2022 shall stand vacated.

18. Consequently, the pending interlocutory application shall also stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 27, 2024/tr