IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

203 ***CWP No.14543-2000***
Date of decision: 24.02.2025

Dhanpat Singh

......Petitioner

Versus

State Bank of India and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Kartikey Chaudhary, Advocate for the petitioner.

Mr. IPS Doabia, Advocate for the respondents.

VINOD S. BHARDWAJ, J (ORAL)

CM-25195-2000

Prayer is for grant of exemption from filing certified copies of the Annexures.

Allowed, as prayed for, subject to all just exceptions.

Main case

Petitioner is seeking issuance of a writ in the nature of Certiorari for quashing of order dated 14.02.2000 whereby claim of the petitioner for grant of pension has been rejected with a further prayer to direct the respondents to grant the pension w.e.f 01.06.2000.

It is the case of the petitioner that he was employed as a Guard on temporary basis on 14.12.1989 followed by his confirmation w.e.f 14.06.1990. It is stated that earlier the minimum qualifying service for granting pension was 20 years but vide letter dated 21.05.1997, the qualifying service for grant of pension had been reduced from 20 years to 10 years. The date of birth of the petitioner is 05.05.1940 and he was to complete his 58 years of service on 31.05.1998.

However the respondent-Bank took a decision on 29.05.1998 and increased the age of superannuation of some staff from 58 to 60 years. In terms of the said Policy decision, the petitioner continued working and eventually he was superannuated on attaining of the age of 60 years i.e on 31.05.2000. Having served for the period from 14.12.1989 to 31.05.2000, the petitioner applied for grant of pension but his request was declined by the respondents-Bank vide order dated 14.02.2000 for the following reasons:

> *"With reference to your letter No.22/438 dated 7.2.2000, in terms of instructions contained in Head Office Circular Memorandum No.CIRDO/PPG/2 of 1997-98, we advise that a member who is in the service of the bank on or after 1.11.1993 shall be entitled to pension after having completed ten years pensionable service provided he has attained the age of 58 years. Sh. Dhanpat Singh Guard has put in only 7 Y- 10-M-21 days pensionable service upto the age of 58 years, so he is not entitled for pension as per pension fund rules. Please advise Sh. Singh accordingly."*

Learned senior counsel representing the petitioner submits that the impugned order is bad in law and the same is to be set aside *inter alia* on the following grounds:

(i) That the period for computing pensionary service had to be taken from the date of initial appointment, the same having been followed by confirmation. He referred to clause 532 of the instructions, which provides that the entitlement of an employee to pension is from the date of confirmation or from the date whereupon he is required to become member of the fund. He further contends that it was specifically pleaded by the petitioner in para 10 of the writ petition that he became member of the pension fund from the date of his appointment and the said pleading has not been denied by the respondents in the reply. Specific pleadings made by the petitioner in para Nos.9 & 10 read as under:

> *"9. That under clause 532 which is reproduced below for ready reference:*

"532. Every permanent employee (including a permanent part-time employee who is required by the Bank to work for more than 6 hours a week) in the service of the Bank who is entitled to the pension benefits under the terms and conditions of his service shall become a member to the fund from:

(a) the date from which he is confirmed in the service of the Bank; or

(b) the date from which he may be required to become a member of the fund under the terms and conditions of his service.

10. That although from the date the petitioner was appointed, he is the member of the pension fund but the service rendered prior to confirmation was not taken into consideration, while calculating 10 years service, as a qualified period for pension.

He has referred to the response filed by the respondents-Bank to para 9 & 10, which is reproduced hereinbelow:

> "9. That para No.9 relates to matter of record which needs no reply.
>
> 10. Regarding para No.10 of the writ petition, it is submitted that Bank Authorities were within their rights not to consider the service rendered by the petitioner before confirmation.

He further submits that the respondent-Bank has not been able to dispute the specific pleadings of the petitioner to the effect that he became a member of the fund from the date of his appointment, hence the said period of six months is required to be calculated.

(ii) It is further argued that the respondents have not taken into consideration that vide Policy decision dated 29.05.1998, the age of superannuation of the staff has been increased from 58 to 60 years. Respondents, however, did not compute the extended period of service rendered by the petitioner for computing the pensionable service period and continued to abide by the first rule, which prescribed age of superannuation of 58 years. It was the responsibility of the Bank to bring all clauses pertaining to pensionary benefits in conformity with the policy decision dated 29.05.1998. He submits that on giving benefit of computation of the aforesaid period of two years, the petitioner would have served for more than 10 years and 05 months of qualifying service and that in case benefit of the temporary appointment prior to confirmation is to be taken away, his period of service rendered would be 09 years and 11 months approximately and thus the said period being more than six months should be rounded off as qualifying service of 10 years towards the benefit of pension.

Learned counsel for the respondents contends that the policy decision dated 29.05.1998 would not be applicable to the petitioner, in view of the fact that specific requirement prescribed thereunder was that an employee has to be less than 58 years of age to get the benefit. Since the petitioner was already more than 58 years of age as on 29.05.1998, hence he was not entitled to claim the said benefit. He has, however, not been in a position to dispute the fact that the extension of two years was granted to the petitioner and he was eventually superannuated on 31.05.2000.

Learned counsel further submits that clause 532 as relied upon by the petitioner talks of an employee becoming a member of the pension fund or from the date of confirmation and as such claim of the petitioner for computing the period from 14.12.1989 is misconceived as the order of confirmation was passed on 14.06.1990.

However, in any case, learned counsel for the respondents is not in a position to dispute that in the written statement so filed, there is no such distinction made by the respondents and they have not disputed the specific averment of the petitioner about his being a member of the pension fund from the date of his appointment. The said reply having been filed more than 20 years ago, there is no occasion at this stage to dispute the same.

I have heard learned counsel for the parties and perused the material placed on record.

Having considered the entire material on record, I am of the opinion that undisputedly, the petitioner was appointed on 14.12.1989 followed by his confirmation on 14.06.1990. The specific pleading of the petitioner that he became a member of the pension fund from the date of his appointment remains undisputed. In such an eventuality, respondents cannot contend that clause 532 (a) would be applicable and the petitioner would be deemed to be a member of the fund from the date of confirmation. The said argument thus would be contrary to the pleadings made and thus cannot be accepted. The argument raised beyond pleading cannot be accepted and petitioner cannot be put to prove, what is not in dispute.

It is further noticed by this Court that even the issuance of Policy decision on 29.05.1998 is also not disputed. Notwithstanding the submission by the respondents that the petitioner was not eligible for such an extension, however, it remains undisputed that the petitioner actually availed the benefit of extension by two years of service and was eventually superannuated on attaining the age of 60 years i.e on 31.05.2000, hence at this stage, the respondents cannot be permitted to say that even though the petitioner was member of the service and worked with the respondents till the age of 60 years, however while computing the pensionable service, his service other than the service actually rendered would not be so counted and has to be computed till the age of 58 years.

In these circumstances, I find that the reasons given by the respondents while declining the pensionary benefits to the petitioner vide order/communication dated 14.02.2000 are not validly recorded and suffer from non-consideration of the above aspects.

Accordingly, the present petition is allowed and order dated 14.02.2000 is set aside. A direction is issued to the respondents to compute the pensionary benefits as admissible to the petitioner within a period of two months from the date of receipt of certified copy of the order and release the same within two months thereafter along with interest @ 6% per annum from the date, it became due.

February 24, 2025 **(VINOD S BHARDWAJ)**
manoj **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No