



\$~6

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

Date of Decision: 12th May, 2026.

+ W.P.(C) 683/2020

R. K. BANSAL

.....Petitioner

Through: Mr. Mohammad Sajid, Advocate.

versus

BANK OF BARODA AND ORS.

.....Respondents

Through: Mr. Arun Aggarwal, Mr. Lovelesh
Kukreja, Mrs. Kajal Ashok Mishra,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. R.K. Bansal, the Petitioner, served the erstwhile Dena Bank and, when he reached superannuation on 31st March, 2017, held the post of Deputy General Manager. A disciplinary proceeding, initiated shortly before his retirement, was continued thereafter and culminated in the order dated 12th February, 2018, by which the Bank imposed upon him the penalty of compulsory retirement, to operate from the date of superannuation. The Petitioner states that he has challenged that penalty in separate proceedings. The present writ petition only assails the order dated 20th December, 2019, whereby the Petitioner was informed that his pension had been reduced in accordance with Regulation 33 of the Dena Bank (Employees') Pension Regulations, 1995. The question that arises is whether the Bank could



lawfully reduce his full pension otherwise admissible to him, to two-thirds pension.

Facts

2. On 17th March, 2017, a charge-sheet was issued to the Petitioner in relation to the account of H.V. Metal Arc Pvt. Ltd. The allegations pertained to his tenure as Zonal Manager, member of ZO-CAC, and Chairman of ZO-CAC, New Delhi Zone. Since the proceedings could not be completed before his retirement on 31st March, 2017, Regulation 20(3)(iii) of the Dena Bank (Officers') Service Regulations, 1979 was invoked. The inquiry authority found two charges proved, namely, violation of Bank rules and procedures in performance of official duties, and failure to take requisite steps to protect the interest of the Bank.

3. By memorandum dated 12th February, 2018, the disciplinary authority imposed upon the Petitioner the penalty of "compulsory retirement from Bank's service as on date of superannuation i.e. 31st March, 2017". The disciplinary order recorded that the account had slipped into NPA on 31st December, 2014 and that the Bank was exposed to a "likely loss" of Rs.5.75 crores plus uncharged interest. The order, however, neither quantified any amount recoverable from the Petitioner nor directed recovery from pension or ordered withholding or withdrawal thereof. Nor did it state that the Petitioner would be paid only two-third of the pension otherwise admissible to him.

4. The Petitioner was paid full pension till May 2018, but subsequently, with effect from June 2018, his basic pension was reduced from Rs.40,080 per month to Rs.26,720 per month, without any order, reasons or communication. The Bank disputes this version. The Bank states that the



pension was worked out at Rs.40,080 per month, but, “in view of the decision of the Board”, two-third pension of Rs.26,720 per month was sanctioned with effect from 1st April, 2017 under Regulation 33 of the Dena Bank (Employees’) Pension Regulations, 1995.

5. The Petitioner earlier approached this Court in W.P.(C) 9918/2018, which was disposed of by order dated 27th September, 2019, directing the Bank to treat the writ petition as a representation and dispose it of within eight weeks.

6. Pursuant thereto, the Bank passed the impugned order dated 20th December, 2019, reciting the disciplinary history and relying upon Regulation 33 of the Pension Regulations. It was concluded that, after following due process under the Pension Regulations, pension had already been correctly sanctioned and disbursed. The representation was, therefore, rejected as being devoid of merit. The order did not state why full pension was denied or disclose the material considered by the competent authority. It did not record any independent assessment of the Petitioner’s service record, the nature of misconduct, the extent of loss, or the absence or presence of fraud or personal gain. It also did not disclose whether the Board of Directors had been consulted before the decision to award less than full pension.

Contentions

7. Counsel for the Petitioner submits that Regulation 33 does not make two-third pension an automatic consequence of compulsory retirement, but only prescribes the minimum pension payable. If less than full pension is to be granted, prior consultation with the Board of Directors under Regulation 33(2) is mandatory. The impugned order, it is submitted, fails this



requirement, as the Bank had already decided to restrict the Petitioner to two-third pension before placing the matter before the Board, rendering the exercise a mere post-decisional endorsement rather than meaningful consultation.

8. Counsel for the Petitioner further submits that the penalty order dated 12th February, 2018 concluded the disciplinary proceedings. If the Bank intended to reduce pension further, it had to pass a reasoned order under Regulation 33 after following the prescribed procedure. The reduction, it is urged, could not be treated as an automatic consequence of compulsory retirement, as Regulation 33 confers discretion between two-third pension and full pension, which must be exercised on relevant material and for recorded reasons.

9. It is further submitted that Regulation 48 cannot be pressed into service to defend the impugned reduction as it operates in a distinct field. It enables withholding, withdrawal, or recovery from pension where pecuniary loss caused to the Bank is sought to be visited upon the pensioner in the circumstances contemplated by the Regulation. The Petitioner, however, was not subjected to any determination under Regulation 48. No quantified loss was put to him for recovery from pension. No separate notice was issued proposing withholding, withdrawal, or adjustment of pension on that basis. The order dated 20th December, 2019 also does not purport to be an order under Regulation 48. It rests, if at all, on Regulation 33. The Bank, therefore, cannot invoke Regulation 48 in the counter affidavit to supply a foundation which the impugned order itself does not contain.

10. Counsel for the Petitioner also places reliance on the Staff Accountability Policy of Dena Bank. He submits that clause 20.1.2 of the



said Policy recognises that, in cases other than fraud or involving honesty or integrity, compulsory retirement may be imposed instead of dismissal or removal so that the employee may retain retiral benefits such as pension, provident fund and gratuity. The policy further records that terminal benefits need not be adjusted towards loss in such cases. In the present case, the penalty order does not record any finding of fraud, personal enrichment, criminal breach of trust or lack of integrity. The Bank could not, therefore, effect a pensionary deprivation by invoking loss in a vague manner.

11. Counsel for the Petitioner further submits that pension is protected as property under Article 300A of the Constitution. It cannot be curtailed by administrative convenience, post facto approval, or a cryptic order. The Petitioner had rendered long service. If the Bank wished to deny him full pension, it had to demonstrate a lawful, reasoned and procedurally fair exercise of power.

12. Counsel for the Respondent Bank contests the petition. He submits that the Petitioner was found guilty in a duly conducted disciplinary inquiry. The penalty of compulsory retirement has not been set aside by any Court or competent authority. The account in question became NPA and the Bank suffered financial exposure. In such circumstances, the Petitioner cannot claim full pension as a matter of right.

13. The counsel submits that Regulation 33 squarely governs the case. An employee compulsorily retired as a penalty does not have an indefeasible right to full pension. The Regulation permits the competent authority to grant pension at any rate between two-third and full pension admissible on the date of compulsory retirement. The Petitioner, it is urged, has been granted the statutory minimum of two-third pension and the decision, for



that reason, remains within the four corners of the Pension Regulations.

14. On the requirement of consultation, counsel submits that Regulation 33(2) was duly complied with. The matter was placed before the Board of Directors and the Board was consulted before pension was finally sanctioned. The documents placed on record, according to the Bank, show that the case was put up for the Board's consideration. The mere fact that a note or draft resolution accompanied the proposal does not, by itself, establish that the Board acted mechanically or was denied the opportunity to apply its independent mind. The Board was free to disagree with the proposal or to take another view; having considered the matter, it accepted the grant of two-third pension to the Petitioner.

15. Counsel for the Bank further submits that Regulation 48 is relevant because the Petitioner's lapses exposed the Bank to financial loss. It is urged that the Petitioner cannot separate pension from the misconduct which led to compulsory retirement. The Bank also raises a preliminary objection of res judicata and submits that the earlier writ petition was disposed of, the Bank passed a reasoned order in compliance with the direction of this Court, and the matter should now be treated as closed.

16. On these rival submissions, the following issues arise for consideration:

(i) Whether the present writ petition is barred by res judicata, or otherwise rendered not maintainable, by reason of the order dated 27th September, 2019 passed in W.P.(C) 9918/2018.

(ii) Whether the reduction of the Petitioner's pension from full pension to two-third pension satisfies the requirements of Regulation 33 of the Dena Bank (Employees') Pension Regulations, 1995, particularly the requirement



of prior consultation with the Board of Directors.

(iii) Whether Regulation 48 can be invoked to sustain the reduction of pension when neither the penalty order dated 12th February, 2018 nor the impugned order dated 20th December, 2019 purports to proceed under that provision.

(iv) Whether the Staff Accountability Policy of the erstwhile Dena Bank had any bearing on the exercise of discretion under Regulation 33, especially in a case where the penalty imposed was compulsory retirement and not dismissal or removal.

(v) What relief should follow.

Analysis

17. The preliminary objection based on res judicata must be dealt with at the outset. The order dated 27th September, 2019 in W.P.(C) 9918/2018 did not adjudicate the legality of the pension reduction. It did not decide whether the Petitioner was entitled to full pension or two-third pension. It merely directed the Bank to treat that writ petition as a representation and decide it within eight weeks. The impugned order dated 20th December, 2019 is the order passed pursuant to that direction. The challenge in the present petition is to that order. The plea of res judicata is, therefore, misconceived.

18. The next question concerns the proper construction of Regulation 33. The provision deals with a specific consequence of a specific penalty: the pension payable to an employee who has been compulsorily retired from service. Sub-regulation (1) does not prescribe automatic forfeiture of any fixed portion of pension. It confers a discretion to grant pension within a defined range, namely, not less than two-third and not more than the full pension admissible to the employee on the date of compulsory retirement,



provided the employee was otherwise entitled to superannuation pension on that date. Sub-regulation (2) then imposes a procedural condition on the exercise of that discretion. Where the competent authority proposes to award pension lower than the full pension admissible under the Regulations, the Board of Directors must be consulted before such order is passed. The statutory trigger for consultation is, therefore, any award of pension below full pension.

19. The words “before such order is passed” are sacrosanct. They mark the point at which the safeguard must operate. Consultation after the authority has already made up its mind is not consultation. Nor is approval of a concluded decision. For a valid consultation, the matter must remain open when it is placed before the Board. The relevant material must accompany the proposal. The Board must be invited to consider whether the facts justify full pension or pension at a reduced rate within the range permitted by Regulation 33. The final decision must emerge after that exercise; it cannot be presented to the Board as an accomplished conclusion.

20. This position now stands settled by the Supreme Court in *Vijay Kumar v. Central Bank of India*,¹ while construing Regulation 33 of the Central Bank of India (Employees’) Pension Regulations, 1995, a provision materially similar to the one involved here. The Supreme Court held that sub-regulations (1) and (2) of Regulation 33 must be read together, and that whenever pension lower than the full pension admissible is awarded to an employee compulsorily retired as a penalty, prior consultation with the Board is mandatory. The Court rejected the contention that consultation is necessary only in a limited class of cases, and treated prior Board



consultation as a substantive safeguard before a pensionary entitlement, protected as property under Article 300A, is curtailed. Post-decisional approval cannot cure the absence of prior consultation.

21. This Court, in *Ashok Kumar Sawhney v. Central Bank of India*,² had also examined a reduction of pension by one-third after compulsory retirement. The Division Bench treated Regulation 33 as requiring strict adherence where the Bank seeks to pay less than full pension. That decision rests on a simple but important principle: a pension cut after compulsory retirement is not a mechanical sequel to the penalty. It is a distinct decision under the Pension Regulations and must satisfy the procedure prescribed by those Regulations.

22. Pension has also been treated by the Supreme Court as a valuable right, not a bounty. In *State of Jharkhand v. Jitendra Kumar Srivastava*,³ the Supreme Court reiterated that pension and gratuity are earned benefits and partake the character of property. Such a right cannot be taken away except by authority of law. Therefore, curtailment of such a right must faithfully follow the statute, regulation or rule which authorises it.

23. In the present case, the impugned order falls short of that threshold. It reproduces Regulation 33, but does not reveal any real exercise of discretion under that provision. It does not state that the Board was consulted before the decision to award less than full pension was taken. It does not explain why the Petitioner's case warranted two-third pension rather than full pension. There is no consideration of his length of service, past record, the precise nature of the misconduct found proved, the absence or presence of

¹ 2025 INSC 848

² 2019:DHC:2682-DB



fraud or personal gain, the extent of loss actually attributable to him, or the proportionality of imposing a further pensionary consequence after the penalty of compulsory retirement had already been imposed. An order affecting pension cannot be sustained by a bare recital that “due process” has been followed. The order must disclose, at least in substance, the process followed, the authority which applied its mind, the material considered, and the reasons which led to the denial of full pension.

24. The Bank seeks to defend this by referring to documents suggesting that the Board was, in fact, consulted; however, if these records are taken into account, rather the distinction between “consultation” and “approval” becomes evident. The Bank’s internal records prove the matter was not placed before the Board as an open question. The 14th June, 2018 Board Agenda explicitly recorded that the Competent Authority, *via* a note dated 23rd March, 2018 “has sanctioned two-third Pension” and concluded the Petitioner “will be eligible” only for that reduced amount. Furthermore, the preparation of a pre-recorded “Draft Board Resolution” alongside the agenda, which already stated that the proposal “was considered and approved”, also indicates that the outcome was a predetermined conclusion. The Board on 22nd June, 2018, accordingly resolved to grant approval, without any deliberation, simply stating that “approval be and is hereby given”. This exercise was, thus, nothing but sanctioning a pre-determined outcome. The consultation with the Board, as contemplated under the provision, which requires an open consideration of the matter, is not borne out from the record.

25. Nor can the Bank meet the challenge by saying that two-third pension

³ (2013) 12 SCC 210



falls within the range permitted by Regulation 33. The existence of power is one matter; its lawful exercise is another. Regulation 33 does not make a one-third reduction the ordinary or automatic consequence of compulsory retirement. It fixes the outer limits of discretion. The floor is two-third pension and the ceiling is full pension. The authority must still decide, on relevant material, where the case falls within that range. Such a decision must be supported by reasons, informed by relevant considerations, and preceded by consultation with the Board where less than full pension is proposed.

26. It is at this point that the Bank's reliance on Regulation 48 must be examined. Regulation 48 operates in a different field. It is a provision for withholding, withdrawing, or recovering pension where pecuniary loss caused to the Bank is sought to be imposed upon a pensioner on account of grave misconduct, negligence, criminal breach of trust, forgery, or fraudulent acts during service. It carries its own safeguards, including consultation with the Board before final orders are passed. The Regulation also contemplates that departmental proceedings instituted while the employee was in service may, after retirement, be continued and concluded as proceedings under the Pension Regulations. That deeming fiction exists because, after retirement, the Bank cannot impose the usual service penalties in the same manner as it could during service; the surviving consequences are pensionary and retiral in character.

27. There may, therefore, be cases where Regulation 48 is properly invoked after retirement, but this is not such a case. The Petitioner was not subjected to a Regulation 48 determination. He was visited with the penalty of compulsory retirement under the Discipline and Appeal Regulations. The



order dated 12th February, 2018 does not purport to withhold, withdraw, or recover pension under Regulation 48. It does not quantify any recoverable loss. It does not direct recovery from pension. It does not decide that any part of pension should be adjusted against pecuniary loss. It records exposure to “likely loss” and, on that basis among others, imposes the penalty of compulsory retirement. The pensionary consequence was thereafter required to be worked out under Regulation 33, unless the Bank separately invoked Regulation 48 in accordance with its procedural safeguards. It did not do so.

28. The impugned order dated 20th December, 2019 also does not proceed under Regulation 48. It merely recites the disciplinary history, quotes Regulation 33, and concludes that pension had been sanctioned and disbursed after due process under the Pension Regulations. There is no reference to Regulation 48, no quantification of pecuniary loss, and no direction for recovery from pension or for withholding or withdrawal thereof. Nor does the order furnish any reasons justifying such withholding, withdrawal, or recovery as a measure of loss recovery.

29. The same is true of the penalty order dated 12th February, 2018. The order records that the Bank was exposed to “likely loss” and, in exercise of powers under Regulation 7(3) of the Dena Bank Officer Employees’ Discipline and Appeal Regulations, 1976, imposes the penalty of compulsory retirement. The order neither invokes Regulation 48 nor quantifies any recoverable loss or directs withholding, withdrawal, or recovery of pension. Mere reference to “likely loss” in a disciplinary penalty order cannot, by itself, amount to an order under Regulation 48.

30. The Bank’s stand, therefore, lacks statutory clarity. It relies on



Regulation 33 to justify the rate of pension, but invokes Regulation 48 in the counter affidavit to support the reduction by reference to loss. The two provisions cannot be used interchangeably. If the Bank intended to recover or adjust pecuniary loss from pension, it had to take the route of Regulation 48 and satisfy its conditions. If, instead, it intended to award pension lower than full pension under Regulation 33, it had to exercise that discretion under Regulation 33, after prior consultation with the Board and for reasons germane to that provision. The Bank cannot use the observation of “likely loss” in the disciplinary order as a bridge to reach two-third pension without satisfying the requirements of either route.

31. The Staff Accountability Policy reinforces this conclusion. Clause 19.1 requires the disciplinary authority, while imposing punishment, to consider the gravity of misconduct, extenuating circumstances, the track record of the charged employee, and recovery effected in NPA accounts or recovery of loss attributable to employee negligence. Clause 20.1 states that recovery of loss from employees should generally not be ordered unless the employee has benefited from the act, monetarily or otherwise. Clause 20.1.1 requires a show-cause notice before adjustment from terminal benefits, and such notice must inform the employee of the quantified loss proposed to be recovered.

32. Clause 20.1.2 assumes significance in this setting. It contemplates the very situation where the proved charge, though serious, is not one of fraud or want of honesty or integrity. In such a case, if the disciplinary authority forms the view that the employee’s continuance in service is no longer in the Bank’s interest, the policy permits compulsory retirement instead of the harsher penalties of dismissal or removal. The reason for this distinction is



stated in the policy itself. Compulsory retirement is chosen so that the employee is not stripped of all retirement benefits, and may still receive benefits such as pension, provident fund and gratuity, unlike an employee dismissed or removed from service. The clause then records that terminal benefits need not be adjusted towards loss, if any, in such cases. The policy, therefore, does not override Regulation 33; but it is a relevant indicator of how the Bank itself understood the consequence of imposing compulsory retirement in cases not involving fraud, dishonest gain or integrity-related misconduct.

33. This policy forms part of the Bank's own framework for deciding the consequences of misconduct and the treatment of retiral benefits. Where the Bank has chosen compulsory retirement instead of dismissal or removal, and where the penalty order does not record fraud, dishonest gain, or want of integrity, the authority must show why the case nevertheless calls for a further pensionary consequence. That explanation is missing here.

34. Regulation 33 does not itself impose another punishment. It regulates the pension payable after the punishment of compulsory retirement has already been imposed. The penalty is complete once compulsory retirement is ordered. Any decision thereafter to grant less than full pension is a separate statutory exercise under Regulation 33. It must therefore carry its own justification. That justification cannot be supplied merely by pointing again to the penalty of compulsory retirement. If that were enough, every order of compulsory retirement would, as a matter of course, result in two-third pension. Regulation 33 says otherwise. It creates a range, and the choice within that range must be made on reasons, not by automatic reduction to the minimum.



35. A stricter duty of justification also follows from the nature of pension. Pension is not grace. It is earned by service and protected by law. The Bank may reduce it where the governing Regulations permit such reduction. But the reduction must be the result of a lawful process, not an administrative afterthought.

36. Tested on these principles, the impugned order cannot stand. It does not answer the representation but merely repels it. Nor does it disclose a lawful exercise of discretion under Regulation 33, demonstrate prior consultation with the Board before awarding less than full pension, or identify the basis on which full pension was denied to the Petitioner. Equally, Regulation 48 is neither validly invoked nor is the Petitioner's specific contention addressed, namely, that the penalty order did not direct reduction of pension and that such reduction was effected without a communicated order.

37. This Court is conscious that the disciplinary penalty of compulsory retirement has not been set aside in these proceedings. That, however, does not conclude the present issue. The Petitioner is not being granted relief on the basis that the disciplinary penalty is erroneous. Relief follows because the subsequent reduction in pension fails to satisfy the governing Regulations.

38. The impugned order dated 20th December, 2019 is accordingly set aside. The Bank shall reconsider the Petitioner's case for pension under Regulation 33 of the Dena Bank (Employees') Pension Regulations, 1995. Before taking any decision to award pension lower than full pension, the Bank shall give the Petitioner an opportunity to submit a representation on the proposed reduction. The matter shall thereafter be placed before the



Board of Directors for prior consultation in the true sense of that expression. The material placed before the Board shall include the penalty order, the Petitioner's service record, the findings in the disciplinary proceedings, the nature of the misconduct, the absence or presence of fraud or personal gain, the Staff Accountability Policy, and any material on actual loss or recovery in the account concerned. The competent authority shall then pass a reasoned order having regard to the observations made hereinabove.

39. The aforesaid exercise shall be completed within eight weeks from the date of receipt of this judgment. If no fresh order is passed within that period, the Petitioner shall be entitled to full pension from the date on which the reduction took effect, together with consequential arrears. If a fresh order is passed awarding less than full pension, it shall be open to the Petitioner to challenge the same in accordance with law.

40. The writ petition is allowed in the above terms.

SANJEEV NARULA, J

MAY 12, 2026/ab