

**SUPREME COURT OF INDIA**

Arikaravula Sanyasi Raju

Vs.

Branch Manager, State Bank of India, Visakhapatnam (A.P.)

C.A.No.15072 of 1996

(K. Ramaswamy and G. B. Pattanaik, JJ.)

18.11.1996

**ORDER**

1. Leave granted.

2. This appeal by special leave arises from the order of the Division Bench of the Andhra Pradesh High Court, made on April 26, 1996 in Writ Appeal No. 203/-96 confirming the judgment of the learned single Judge.

3. The admitted position is that while the appellant was working as an officer in JMG Scale-I, an enquiry was held and he was removed from service on the finding of misconduct recorded by order dated May 25, 1990. He filed the writ petition claiming payment of Provident Fund and pension. The learned single Judge directed payment of the Provident Fund in terms of the Rule but denied the relief of pension. That was confirmed by the Division Bench.

4. The appellant placed reliance on Rule 22 of the State Bank of India Services Rules which reads as under.

"22. (i) A member shall be entitled to a pension under these rules on retiring from the Bank's service.

(a) After having completed twenty years pensionable service provided that he has attained the age of fifty years;

(b) After having completed twenty years pensionable service, irrespective of the age he shall have attained, if he shall satisfy the authority competent to sanction his retirement by approved medical certificate or otherwise that he is incapacitated for further active service;

(c) After having completed twenty years pensionable service irrespective of the age he shall have attained at his request in writing.

(d) After twenty five years pensionable service.

(ii) A member who has attained the age of fifty five or who shall be proved to the satisfaction of the authority empowered to sanction his retirement to be permanently incapacitated by bodily or mental infirmity from further active service (such infirmity not being the result of irregular or intemperate habits) may, at the discretion of the trustees, be granted a proportionate pension.

(iii) A member who has been permitted to retire under Clause (1)(c) above shall be entitled to proportionate pension."

5. It was contended that under Clause 22(i)(b), because of the removal from service he was incapacitated for further active service and he is entitled to the pension. The High Court rightly had not accepted the said contention. It is seen that on medical grounds or any of the enumerated grounds if he had sought retirement on that basis and allowed to retire from service, he would be entitled to pension on completion of 20 years of pensionable service. Removal from service for misconduct cannot be considered to be incapacitation for rendering the service and Clause 22(i)(b) does not apply to pension. It is then seriously contended by Shri Sampath, learned counsel for the appellant, that since he has completed 20 years of pensionable service, irrespective of removal, he is

entitled to the pension under Clause (c) thereof. In support thereof, he sought to place reliance on a clarification issued by the Bank in their letter dated February 11, 1985 stating that removal from service entitled him to pension as is available to the other retired persons. He also further contended that one Mr. C.C.M. Nambiar, who was similarly situated and removed from service for misconduct, was given the benefit on the said advice. Therefore, the petitioner is entitled to the same benefit. We cannot accept the said contention as correct. Clause 22(i)(c) envisages only that after completing 20 years of pensionable service, if an incumbent retired at his request in writing and was permitted to retire, he would be entitled to pension. In other words, for voluntary retirement, on completion of 20 years of pensionable service, clause (c) of Rule 22(1) gets attracted. It does not apply to officer who was removed from service for misconduct. Under these circumstances, the High Court has not committed any error of law warranting interference. Merely because, on a wrong advice, another employee was given pension after removal from service, the same cannot be made a ground under Article 14 to perpetuate the same mistake. So, Article 14 does not apply and no discrimination arises.

6. The appeal is disposed of. No costs.

Order accordingly.