

SUPREME COURT OF INDIA

Central Bank of India

Vs.

Tara Chand

C.A.No.5898 of 2019

(Ashok Bhushan and Navin Sinha,JJ.,)

31.07.2019

JUDGMENT

Ashok Bhushan,J.,

SLP(Civil)No.15783 of 2017

1. This appeal has been filed by the Central Bank of India challenging the judgment of the Division Bench of the Rajasthan High Court dated 09.03.2017 in the DB Civil Special Appeal No.817 of 2015 dismissing the Special Appeal filed by the appellants. The Special Appeal was filed by the appellants against the judgment of the learned Single Judge dated 28.04.2015 allowing the writ petition filed by the respondent quashing the order of the Bank dated 12.09.2001 denying to grant pro-rata pension upon opting for voluntary retirement under the Central Bank of India Employees Voluntary Retirement Scheme, 2001.

2. Necessary facts for deciding this appeal are:

On 26.10.1995 Central Bank of India (Employees') Pension Regulations, 1995 (hereinafter referred to as "Regulations, 1995) came into force. The respondent-Tara Chand opted for the pension scheme. The respondent's option for pension scheme was accepted by the Bank. A Scheme for voluntary retirement, namely, Central Bank of India Employees Voluntary Retirement Scheme, 2001(hereinafter referred to as "Scheme, 2001") was framed which was made effective from 22.02.2001 to 08.03.2001. Prior to the Scheme being made effective a circular dated 31.01.2001 was issued by the Bank by which several clarifications were issued for smooth implementation of the Scheme. The respondent submitted an application for voluntary retirement on 23.02.2001. The application for voluntary retirement of respondent was accepted by the Bank by order dated 26.03.2001. By order dated 12.09.2001, the Bank refused to grant pro-rata pension to the respondent No.1, who had opted for the voluntary retirement under the Scheme, 2001. A S.B. Civil Writ Petition No.4342 of 2001 was filed by the respondent

praying for quashing the order dated 12.09.2001 and praying for a direction to the Bank to extend pensionary benefits to the respondent upon his retirement with effect from 01.04.2001. The learned Single Judge after considering the Regulations, 1995 and the Scheme, 2001 took the view that Clause 6(ii) of the Scheme, 2001 entitled the respondent to pension as per Pension Regulations, 1995. The writ petition was allowed and the order dated 12.06.2001 was set aside with direction to the Bank to extend benefits of pro-rata/proportionate pension to the respondent to the extent of his entitlement in terms of the Scheme, 2001 read with Regulations, 1995. The Bank aggrieved by the judgment of the learned Single Judge filed Special Appeal, which too had been dismissed by the Division Bench. The Division Bench took the view that the respondent who was above 40 years of age and had completed 11 years of service in the Bank was definitely entitled to opt for voluntary retirement and simultaneously claim pension under the Scheme. The Division Bench took the view that Clause 6(ii) of the Scheme, 2001 entitles the respondent to pension. The Division Bench placed reliance on the judgment of this Court in *Bank of India and another Vs. K. Mohandas and others*¹.

Aggrieved against the judgment of the High Court, the Bank has come up in this appeal.

3. Shri Debal Banerjee, learned senior counsel, appearing for the appellant contended that as per Clause 6(ii) of the Scheme, 2001, an employee seeking voluntary retirement under the Scheme, 2001 will be eligible for pension only as per Regulations, 1995. It is submitted that eligibility to apply under the Scheme, 2001 does not ipso facto entitle an employee to receive pension. An employee is entitled for pension as per Regulations, 1995. He submits that as per Regulation 28 w.e.f. 01.09.2000, an employee is entitled for pension who opts to retire before attaining the age of superannuation, but after rendering service for a minimum period of 15 years in terms of any Scheme. He submits that the respondent having not rendered 15 years of service is not entitled for the pension and the Bank has rightly rejected it. Shri Banerjee further relied on the judgment of this Court in *Bank of Baroda and others vs. Ganpat Singh Deora*², *Punjab National Bank and others vs. Ram Kishan*³, and *Regional Manager, Punjab National Bank and another vs. Dharam Pal Singh*⁴.

4. Dr. Manish Singhvi, learned senior counsel, appearing for the respondent refuting the submissions of the appellant contends that the respondent was clearly entitled for pension and the High Court has committed no error in allowing the claim of pension of the respondent. It is submitted that as per Clause 4 of the Scheme, an employee who has completed 15 years of service in the Bank or 40 years of age will be eligible to seek voluntary retirement under the Scheme and is eligible for pension. The respondent having completed 40 years of age was clearly eligible. He further submits that as per Regulation 14 of Regulations, 1995, an employee who has rendered a minimum of 10 years of service in the Bank on the date of the retirement or the date on which he is deemed to have retired shall qualify for pension. The respondent having rendered 11 years of service was clearly eligible for pension.

5. Dr. Singhvi, learned senior counsel for the respondent has placed reliance on the judgment of this Court in *Bank of India and another Vs. K. Mohandas and others*⁵, and *National Insurance Company Limited and another vs. Kirpal Singh*⁶. Dr. Singhvi further submits that the present is a case where the respondent applied for pension in the year 2001 and for the last 18 years he is waiting for pension. Hence, present is a case where this Court may not interfere with the impugned judgment of the High Court.

6. We have considered the submissions of the parties and perused the records.

7. We may first notice the relevant provisions of the Scheme, 2001. Clause 4 deals with the eligibility to the following effect:

"4. ELIGIBILITY:-

4.1 All permanent employees of the Bank will be eligible to seek voluntary retirement under the scheme provided they meet the following eligibility criteria as on the date of application: -

a) they have completed 15 years of service in the Bank

OR

b) 40 years of age.

4.2 However, the employees falling in the following categories are not eligible to seek voluntary retirement under the scheme:-

a) All existing Specialists Officers;

b) officers/employees who have executed service bonds and have not completed it;

c) Employees serving abroad under special arrangements/bonds;

d) Employees against whom disciplinary proceedings are contemplated/pending or who are under suspension;

e) Employees appointed on contract basis;

f) Any other category of employees as may be specified by the management."

8. Clause 6 deals with the other benefits, which is to the following effect:

"6. OTHER BENEFITS:-

An employee seeking voluntary retirement under the Scheme will be eligible for the following benefits in addition to the ex- gratia amount mentioned in Clause 5 above

of this Scheme:-

i) Gratuity as per Payment of Gratuity Act, 1972 or Gratuity payable under the Service Rules as the case may be, as per existing rules;

ii) a) Pension (including commuted value of pension) as per Central Bank of India (Employees') Pension Regulations 1995 (in case of those who have opted for Pension and otherwise eligible for the same)

OR

b) Bank's contribution towards PF as per existing rules (in respect of employees opted to PF)

iii) Leave encashment as per existing rules."

9. It is true that as per Clause 4 any employee who has 15 years of service or completed 40 years of age is eligible to apply for voluntary retirement under the Scheme. There is no dispute that the respondent was eligible to apply for voluntary retirement, other benefits under the Scheme have been extended to the respondent and only limited issue in the present appeal is entitlement of the respondent for pension. Clause 6(ii), which is relevant provision regarding entitlement of the claim provides that "Pension (including commuted value of pension) as per Central Bank of India (Employees') Pension Regulations, 1995 " Thus, payment of pension under the Scheme has to be as per Pension Regulations, 1995. Thus, we have to refer to the Pension Regulations to find out the entitlement of the respondent. Regulation 14 which is relied by the learned counsel for respondent provides as follows:

"Regulation 14. Qualifying Service - Subject to the other conditions contained in these regulations, an employee who has rendered a minimum of ten years of service in the Bank on the date of his retirement or the date on which he is deemed to have retired shall qualify for pension."

10. Regulation 14 begins with the words "subject to the other conditions contained in these regulations". Further, an employee who has rendered a minimum of ten years of service in the Bank on the date of his retirement or the date on which he is deemed to have retired shall qualify for pension. Thus, this qualifying service is relevant when a person has completed 10 years of service on the date of his retirement. The retirement has been defined in definition Clause 2(y), which is to the following effect:

""Retirement" means cessation from Bank's service

(a) on attaining the age of superannuation specified in Service Regulations or Settlements;

- (b) on voluntary retirement in accordance with provisions contained in Regulation 29 of these regulations;
- (c) on premature retirement by the Bank before attaining the age of superannuation specified in Service Regulations or Settlement;

11. Voluntary retirement in the case of respondent is not retirement which is covered within the definition of Clause 2(y) on strict interpretation of definition clause. Furthermore, as clear from the opening words, the said qualifying service is "subject to the other conditions contained in Regulations". Chapter V of the Regulations, 1995 deals with classes of pension. Different classes of pension include superannuation pension, pension on voluntary retirement, invalid pension, compassionate allowance, premature retirement pension and compulsory retirement pension. Classes of pension specifically defined in Chapter V and in a sense retirement under Voluntary Retirement Scheme was not contemplated when the Regulations were made in 1995. Regulation 28 was amended in the year 2002 w.e.f. 01.09.2000 whereby an employee who opts for retirement before superannuation, but after rendering service for a minimum period of 15 years was also entitled for pension. The respondent is not covered by proviso to Regulation 28. As noted above, as per Clause 6(ii) of the Scheme 2001 entitlement being on the basis of Pension Regulations, 1995, the respondent shall be entitled only for pension if he falls in any of the classes of pension in Chapter V. We may notice that proviso to Regulation 28 although was amended w.e.f. 01.09.2000 but it was clarified by Circular dated 31.01.2001 that the employees, who opted for pension but completed minimum 15 years of service and opt for voluntary retirement under this Scheme would also be eligible for pro-rata pension. Para 2(A)(2.5) is relevant which is quoted below:

"2.5 In terms of Clause 6 of the Scheme, an employee seeking voluntary retirement under this Scheme will, in addition to the ex-gratia amount to the extent stated therein, be eligible for gratuity as per existing Act/Rules, as the case may be, and pension (including commuted value of pension) as per Pension Regulations (in case of those who opted for pension and otherwise eligible for the same) or Banks' contribution towards PF (in respect of employees opted to PF), Leave encashment as per existing rules. In this context, it is clarified that in terms of the proposed amendments to Pension Regulations, the employees who opted for pension but completed minimum 15 years of service and opt for voluntary retirement under this Scheme would also be eligible for pro-rata pension for the period of service rendered as if they are to retire on attaining the age of superannuation. In other words, such employees are not eligible for the addition of 5 years notional weightage which is otherwise available to other pension optees retired voluntarily under Regulation 29 of Pension Regulations. This provision is applicable pending adoption of the amendment to Regulation 28 of Central Bank of India (Employees') Pension Regulations, 1995, through due process."

12. Now, we come to the judgment of this Court relied by the learned counsel for the parties. Learned counsel for the appellant has relied on the judgment of this Court in Bank of Baroda and others vs. Ganpat Singh Deora (supra) where this Court had occasion to

consider Bank of Baroda (Employees) Pension Regulations, 1995 and Bank of Baroda Employees Voluntary Retirement Scheme, 2001. In the above case, the respondent - employee had rendered only 13 years of service and having completed 40 years of age was eligible under the Scheme, 2001. Paragraph 4 of the judgment gives the facts. Regulation 28 of Regulations, 1995 is pari materia to the amended Regulation 28 of Regulations, 1995. Paragraph 8 contains amended Regulation 28, which is to the following effect:

"8. The said amended Regulation 28 was published in the Gazette of India on 2-1-2004 and provides as follows:

"28. Superannuation Pension.- Super-annuation Pension shall be granted to an employee who has retired on his attaining the age of Superannuation specified in the Service Regulations or settlements:

Provided that, with effect from 1-9-2000 pension shall also be granted to an employee who opts to retire before attaining the age of superannuation, but after rendering service for a minimum period of 15 years in terms of any scheme that may be framed for such purpose by the Board with the approval of the Government."

13. Regulation 29 of Bank of Baroda Regulations provided for pension on voluntary retirement. The similar argument was raised in the above case on behalf of the employee which has been noted in paragraph 22 of the judgment, which is to the following effect:

"22. Mr. Agarwala's submissions were strongly opposed by Ms. Aishwarya Bhati, learned advocate appearing for the respondent. She emphatically contended that in a case involving voluntary retirement Regulation 29 would not apply and that, in fact, Regulation 14 would be relevant. Ms. Bhati urged that Regulation 29 of the Pension Regulations dealt not with voluntary retirement under a Scheme but with cases of premature retirement which would be quite clear from the wording thereof. Ms. Bhati urged that Sub- regulation (1) of Regulation 29 provides for a situation where an employee wishes to retire from service even in the absence of a Voluntary Retirement Scheme. The Regulation contemplates that in such a case the employee is not only required to complete 15 years of service but is also required to give notice of not less than 3 months in writing to the Appointing Authority, and, thereafter, retire from service."

14. In paragraphs 28 to 33, this Court dealing with Regulations as well as Scheme laid down following:

"28. However, we are inclined to agree with Ms. Bhati that Regulation 29 does not contemplate voluntary retirement under the Voluntary Retirement Scheme and applies only to such employees who themselves wish to retire de hors any Scheme of Voluntary Retirement, after having completed 15 years of qualifying service for the said purpose.

There is a distinct difference between the two situations and Regulation 29 would not cover the case of an employee opting to retire on the basis of a Voluntary Retirement Scheme.

29. Furthermore, Regulation 2 of the Voluntary Retirement Scheme, 2001, of the appellant-Bank merely prescribes a period of qualifying service for an employee to be eligible to apply for voluntary retirement.

30. On the other hand, Regulations 14 and 29 of the Pension Regulations, 1995, relate to the period of qualifying service for pension under the said Regulations, in two different situations. While Regulation 14 provides that in order to be eligible for pension an employee would have to render a minimum of 10 years' service, Regulation 29 is applicable to the employees choosing to retire from service prematurely, and in their case the period of qualifying service would be 15 years.

31. The facts of this case, however, do not attract the provisions of Regulation 29 since the respondent accepted the offer of voluntary retirement under the Scheme framed by the Bank and not on his own volition de hors any Scheme of Voluntary Retirement. In such a case, Regulation 14 read with Regulation 32 providing for premature retirement would not also apply to the case of the respondent. While Regulation 2 of the BOBEVRS-2001 speaks of eligibility for applying under the Scheme, Regulation 14 of the Pension Regulations, 1995, contemplates a situation whereunder an employee would be eligible for premature pension. The two provisions are for two different purposes and for two different situations. However, Regulation 28 of the Pension Regulations, 1995, after amendment made provision for situations similar to the one in the instant case.

32. In the absence of any particular provision for payment of pension to those who opted for BOBEVRS-2001 other than Regulation 11(ii) of the Scheme, we are once again left to fall back on the Pension Regulations, 1995, and the amended provisions of Regulation 28 which brings within the scope of Superannuation Pension employees who opted for the Voluntary Retirement Scheme, which will be clear from the Explanatory Memorandum. However, the period of qualifying service has been retained as 15 years for those opting for BOBEVRS-2001 and is treated differently from premature retirement where the minimum period of qualifying service has been fixed at 10 years in keeping with Regulation 14 of the Pension Regulations, 1995.

33. We are, therefore, of the view that not having completed the required length of qualifying service as provided under Regulation 28 of the 1995 Regulations, the respondent was not eligible for pension under the Pension Regulations, 1995, of the appellant Bank."

15. The above judgment was subsequently followed in Regional Manager, Punjab National Bank and another vs. Dharam Pal Singh and Punjab National Bank and others vs. Ram

Kishan (supra).

16. The judgment on which much reliance has been placed by the learned counsel for the respondent is Bank of India and another vs. K. Mohandas and others (supra). The issue arose for consideration in the above case has been noticed in paragraph 24 of the judgment, which is to the following effect:

"24. The principal question that falls for our determination is: whether the employees (having completed 20 years of service) of these banks (Bank of India, Punjab National Bank, Punjab & Sind Bank, Union Bank of India and United Bank of India) who had opted for voluntary retirement under VRS 2000 are entitled to addition of five years of notional service in calculating the length of service for the purpose of the said Scheme as per Regulation 29(5) of Pension Regulations, 1995?"

17. In the above case, the Scheme was noted as VRS 2000. Under the aforesaid Scheme eligibility was to employee who had rendered minimum of 15 years of service or completed 40 years of age. In the above case, the judgment of this Court in Bank of Baroda and others vs. Ganpat Singh Deora (supra) was relied by the Bank, which judgment was noticed and this Court laid down following in paragraphs 61 and 63:

"61. The observations made by this Court in Bank of Baroda (2009 (3) SCC 217) which have been quoted above and relied upon by the banks in support of their contention have to be understood in the factual backdrop namely, that the employee had completed only 13 years of service and, was not eligible for the pension under the Pension Regulations, 1995 and for the benefit of addition of five years to qualifying service under Regulation 29(5), an employee must have completed 20 years of service. The question therein was not identical in form with the question here to be decided.

63. The decision of this Court in Bank of Baroda is, thus, clearly distinguishable as the employee therein had not completed qualifying service much less 20 years of service for being eligible to the weightage under Regulation 29(5) and cannot be applied to the present controversy nor does that matter decide the question here to be decided in the present group of matters."

18. The judgment of Bank of Baroda and others vs. Ganpat Singh Deora (supra) was not departed with but distinguished on the facts. The judgment in Bank of India and another vs. K. Mohandas and others (supra) is clearly distinguishable and is not attracted.

19. Dr. Singhvi has placed much reliance on the judgment of this Court in National Insurance Company Limited and another vs. Kirpal Singh, (2014) 5 SCC 189. In the above case, this Court had occasion to consider the SVRS Scheme, 2004. Under the General Insurance Business (Nationalisation) Act, 1972, the eligibility of the Scheme was confined to those employees who have attained the age of 40 years and completed 10 years of qualifying service as on the date of notification. Clause 6 of Scheme, 2004 sub-clause 1(c)

provided that pension shall be payable as per the General Insurance (Employees') Pension Scheme, 1995. The Scheme, which was considered in the above case in Bank of Baroda(supra), is pari materia to the Scheme of the Central Bank of India, 2001. We feel ourselves bound by judgment of this Court in *Bank of Baroda vs. Ganpat Singh Deora (supra)*, which judgment is directly on the similar Regulations and the Scheme. There being two Judge Bench judgment on the similar Regulations and Scheme, we are not inclined to accede to the request of the learned counsel for the respondent that the matter needs to be referred to a larger Bench to consider the *Bank of Baroda vs. Ganpat Singh Deora and National Insurance vs. Kirpal Singh*. The judgment of two Judge Bench in *National Insurance vs. Kirpal Singh (supra)* being on different Regulations and Scheme, we rest our judgment following two Judge Bench judgment of this Court in *Bank of Baroda vs Ganpat Singh Deora (supra)*.

20. In view of what we have said above, we are of the view that the High Court has not correctly interpreted the Scheme and the Regulations. On the submission of the learned counsel for the respondent in the facts of the present case that this Court may not interfere with the impugned judgment since the respondent is waiting for the last 18 years to receive pension, we are of the view that when the Court has to examine interpretation of a statutory Regulation, Scheme and the benefits to be extended to the employees, statutory regime in the Scheme has to be adhered to and with regard to the case of one individual, no exception can be made. We, thus, do not accept the above submission of the learned counsel for the respondent.

21. In view of the aforesaid discussions, this appeal is allowed, judgments of the High Court are set aside and the writ petition filed by the respondent is dismissed. Parties shall bear their own costs.

Judgment Referred

¹(2009) 5 SCC 0313

²(2009) 3 SCC 0217

³(2014) 13 SCC 0485

⁴(2014) 13 SCC 0484

⁵(2009) 5 SCC 0313

⁶(2014)5 SCC 0189