

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 7757 OF 2019
(Arising out of SLP(C)No.18705 of 2016)

ORIENTAL BANK OF COMMERCE AND ORS.

Appellant(s)

VERSUS

JANAK RAJ SHARMA

Respondent(s)

J U D G M E N TA.S. BOPANNA, J.:

Leave granted.

(2) The respondent was working as a Senior Manager in appellants-Bank. He took voluntary retirement on 15.01.2001. On 23.08.2010, the appellants-Bank issued circular granting opportunity to the employees who were in service of the Bank prior to 29.09.1995 and had retired after the date but prior to 27.04.2010 to opt for the pension scheme. The circular had a last date of application which was 25.10.2010 but the respondent got to know about the said circular only on 18.11.2010. He applied for the same. His application was rejected by the appellants-Bank on the account of late submission of the application. Being aggrieved by such rejection, respondent filed writ petition before the High Court.

(3) The learned Single Judge vide order dated 04.09.2015 allowed C.W.P. NO.9855 of 2012 filed by the respondent relying on the judgment passed by the Bombay High Court in the case of Kayoji Sorabji Mirza v. UBI & Ors. and held that the respondent was being abroad at that time had no knowledge of the circular dated 23.08.2010. Therefore, the rejection of the application of the respondent filed after the cut-off date is held not justified keeping in mind the facts of the case. Being aggrieved, the appellants-Bank filed LPA before the Division Bench.

(4) The Division Bench vide order dated 30.09.2015 dismissed the LPA filed by the appellants-Bank on the ground that the respondent exercised his option under the pension scheme after he returned from abroad as he was not aware of the circular until he was abroad.

(5) In that background, the appellants-Bank is before this Court assailing the order dated 06.04.2016 passed by the Division Bench of the High Court of Punjab and Haryana at Chandigarh in LPA NO.1465 of 2015. Through the said order the Division Bench of the High Court has upheld the order passed by the learned Single Judge whereby a direction had been issued to the appellants-Bank to accept the option exercised by the respondent herein under the Pension Scheme and pay him the pension as per the Scheme governing the same.

(6) We have heard Mr. Jagat Arora, learned counsel appearing for the appellants-Bank and Mr. Snehasish Mukherjee, learned

counsel appearing for the respondent and also perused the impugned judgment and the materials on record.

(7) Though the contentions have been urged on merits by Mr. Jagat Arora, learned counsel appearing for the appellants-Bank, to justify the action we do not find it necessary to advert to the details of the said aspect since the fact that the cut-off date had been fixed by the appellants-Bank to exercise the option is undisputed. The same is in consonance with the scheme which has been floated by all public sector banks whereby the date for opting for the pension scheme is provided thereunder. The option had been given to the officers who had retired prior to the said date to exercise the said option subject to conditions imposed.

(8) In the present circumstance, the option was to be exercised by the respondent herein prior to 25.10.2010. The respondent had contended that he could not exercise such option as he was abroad during the relevant point of time from 24.11.2009 and did not know the extension of the scheme and time granted by the appellants-Bank as he returned only on 18.11.2010, after the cut-off date.

(9) In the normal circumstance when a publication of the cut-off date was made while introducing the scheme, it would be appropriate to hold that the option should have been exercised within the last date as prescribed as otherwise there would not be finality. We uphold the Pension Scheme 2010 and with cut-off date for exercising option as on 25.10.2010.

(10) However, considering the fact that the respondent had rendered long period of service to the appellants-Bank and keeping in view that in exceptional circumstance the learned Single Judge as well as the Division Bench of the High Court had directed the appellants-Bank to accept the option exercised by the respondent herein, we are not inclined to interfere with the impugned order. However, we reiterate and make it clear that such direction issued is in the exceptional circumstance keeping in view the facts involved in the instant case and the same shall not be treated as a precedent in any other case. It is also made clear that in respect of the said Pension Scheme if any other matter is pending before any other Court in respect of the appellant-Bank herein or other public sector banks, the direction as approved in the instant appeal shall not be treated as a precedent in such cases and the said cases shall be dealt with independently on its own merits.

(11) In the said circumstance, we approve the order passed by the High Court limited to the facts of the present case subject to the respondent herein returning the provident fund contribution already paid to him in the year 2001 along with interest at the rate of 6% per annum from the date of voluntary retirement scheme i.e. 16.01.2001 till the cut-off date i.e. 25.10.2010 as per the second pension option scheme in terms of the scheme within fifteen days from today. The appellants-Bank shall process the request of the respondent herein for payment of pension and pay the pension any benefit dues within a period of sixty days from the date of receipt of request as well as

the refund of provident fund contribution, as stated above. The payment of pension to the respondent shall be with effect from the date of the order passed by the learned Single Judge i.e. 04.09.2015. It is made clear that in respect of payment of the pension which is ordered from 04.09.2015 till the date of receipt, the respondent would not be entitled to claim any interest on the said amount.

(12) The appeal is accordingly disposed of.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

.....J.
(HRISHIKESH ROY)

NEW DELHI,
OCTOBER 01, 2019.