

A PUNJAB NATIONAL BANK

v.

K.C. CHOPRA AND ANR.

JULY 24, 1997

B [SUJATA V. MANOHAR AND M. JAGANNADHA RAO, JJ.]

*Service Law :*

*Punjab National Bank (Officers) Service Regulations, 1979:*

C *Retirement—Bank Officer—Age of superannuation—Regulations providing age of superannuation as 60 years for those recruited prior to 19-7-1969, and 58 years for those recruited on or after the said date—Appellant who joined the Bank on deputation on 10.3.1970 and was absorbed in the services of the Bank w.e.f. 10.3.72 was retired at the age of 58 years—Order of superannuation held valid—Article 14 of the Constitution cannot be applied to a situation where its benefit as claimed would be contrary to law—Constitution of India—Article 14.*

D *K.K. Tandon v. Punjab National Bank & Ors., (1997) Vol. 6 SCC P. 488, approved.*

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1136 of 1992.

From the Judgment and Order dated 27.11.91 of the Delhi High Court in C.W.P. No. 1288 of 1990.

F N.B. Shetye and Ms. Meera Mathur for JBD & Co., for the Appellant.

R.L. Tandon, Ajoy Tandon and Ashok K. Mahajan for the Respondents.

G The following Order of the Court was delivered :

The respondent was the Assistant Director in the small Industries Development Organisation, Government of India at the material time. He went on deputation on 10.3.1970 to the appellant-Bank. On the expiry of the period of deputation, he was absorbed in the permanent service of the

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appellant-Bank with effect from 10.3.1972. The letter of 16.3.1972 issued by the appellant-Bank sets out that he has been absorbed in the permanent service of the Bank in the category of Officer Grade 'B' with effect from 10.3.1972. Clause 2 of this letter states that the Bank reserves the right to revise the rules relating to the officers and their conditions of service from time to time. The Government of India, Ministry of Industry and Civil supplies by its letter dated 12.5.1975 conveyed the sanction of the President to the permanent absorption of the respondent in public interest in the service of the appellant-Bank with effect from 10.3.1972. On his permanent absorption, the eligibility of the respondent to pension/gratuity from the Government was also spelt out in the letter of sanction. The letter of sanction *inter alia*, also stated that, from the date of permanent absorption, the respondent will be entitled to all the benefits admissible to corresponding employees of the Bank and he will continue to be governed by the Rules of the appellant-Bank in all respects.

In 1979, the Government of India issued certain guidelines relating to the service conditions of employees of Nationalised Banks pursuant to which the appellant-Bank framed Punjab National Bank (Officers) Service Regulations, 1979. Under these Regulations, it was provided as follows :

"1. An officer employee of the Bank recruited/promoted prior to 19th July, 1969 shall retire on completion of 60 years of age.

2. An officer employee of the Bank recruited prior to 19th July, 1969 but promoted as an officer on or after 19th July, 1966 shall retire on completion of 60 years of age.

3. An officer employee of the Bank recruited as an award staff or an officer employee on or after 19th July, 1969 shall retire on completion of 58 years of age."

The reference to the date 19.7.1969 in these Regulations is to the date of nationalisation of the appellant-Bank. Prior to nationalisation of the appellant-Bank, its own service regulations prescribed for its officer employees retirement at the age of 60. After nationalisation, as per Government guidelines, the new regulations prescribed the retirement age of 58 years for officer employees. Hence the Regulations provide that officer employees who were recruited prior to nationalisation shall retire on completion of 60 years of age while the officer employees of the bank who

A were employed after 19.7.1969 shall retire on completion of 58 years of age. Since the respondent was absorbed in the service of the appellant-Bank on 10.3.1972, he was retired at the age of 58 years with effect from 30.4.1990 since he completed 58 years on 7.4.1990.

B It seems that in the case of one H.C. Nakra who was originally in the employment of the State Trading Corporation but had later joined the appellant-Bank, on a representation made to the Ministry of Finance, it was decided that since both the State Trading Corporation as well as the appellant-Bank had treated Nakra's appointment in the Bank as a case of lateral transfer rather than as fresh recruitment he should be given the benefit of retirement at the age of 60. The sanction of the Finance Ministry refers to various considerations. At the time of transfer the then existing age of retirement age was 60 years. This might have been one of the important factors which had attracted the officer to a posting in the appellant-Bank. As a special case, it was decided that Nakra would retire at the age of 60 years. The letter of sanction dated 8.4.1980 from the D Ministry of Finance, Department of Economic Affairs is on record. It is very clearly stated in the letter of sanction that this decision is applicable only in the case of Shri Nakra on the special facts of his case and is not intended to be of general application.

E It is strenuously contended by learned counsel for the respondent that since the respondent is similarly situated as Nakra, he should be given the benefit of retirement at the age of 60 years. He has pointed out that some of the factors which are set out in the Finance Ministry's letter of sanction relating to Shri Nakra are common to his case as well as to the case of Nakra. But there is one important difference. In the case of Shri F Nakra both the State Trading corporation (his previous employer) as well as the appellant-Bank had agreed to treat Nakra's appointment as a case of lateral transfer while in the case of the respondent there is no such agreement. On the contrary, the case of the respondent is clearly a case of absorption in the appellant-Bank with effect from 10.3.1972.

G Moreover the letter of sanction in the case of Nakra clearly sets out that the case of Nakra was to be treated as a special case and not as a matter of general application. We are not required to consider the merits or demerits of this benefit which was conferred on Nakra. What we have H to examine is whether looking to the Regulations of the appellant-Bank,

the respondent can claim that despite these regulations, and in violation of what they prescribe, he should be treated in the same manner as Nakra. Article 14 cannot be applied to a situation where its benefit as claimed, would be contrary to law. The respondent was not an employee of the appellant-Bank prior to 19.7.1969. He cannot claim the benefit of retirement at the age of 60 years. The letter of appointment which was issued by the Bank to the respondent quite clearly shows that he was absorbed as an employee of the Bank with effect from 10.3.1972. All the Rules and Regulations of the appellant-Bank became applicable to the respondent from 10.3.1972. He cannot, therefore, be considered as an employee officer of the Bank recruited prior to 19.7.1969.

It is also contended by learned counsel for the respondent that the case of the respondent is outside the service regulations because he cannot be considered as an officer employee of the Bank recruited after 19.7.1969. This contention has to be stated to be rejected. His links with his previous employer were severed on absorption and he became an employee of the Bank only from 10.3.1972.

The High Court, in our view, was not right in giving the benefit of the retirement age of 60 years to the respondent on the basis of *Nakra's* case. Another Division Bench of the same High Court, in the case of *K.K. Tandon v. Punjab National Bank & Ors.*, (C.W. No. 2293/90) by its judgment dated August 28, 1990 had refused to extend similar benefits to the petitioner before it on the ground inter alia, that *Nakra's* case was treated as a special case. The special Leave Petition from this judgment was also dismissed by this Court.

The very sanction letter in the case of Nakra on which strong reliance is placed by the respondent, in terms, states that the decision in *Nakra's* case is available only to him and is not intended to be of general application. Others, therefore, cannot claim the same benefit on the basis of that decision specially when giving that benefit would be contrary to and in the teeth of the service regulations applicable to the employee.

The appeal is, therefore, allowed. The impugned judgment of the High Court is set aside. There shall be no order as to costs.

R.P.

Appeal allowed.