

CASE DETAILS

SYNDICATE BANK

v.

N. R. BHAT

(Petition for Special Leave to Appeal (Civil) No.7277 of 2020)

OCTOBER 10, 2023

[HIMA KOHLI AND AHSANUDDIN AMANULLAH, JJ.]

HEADNOTES

Issue for consideration: Matter was settled between the parties (respondent-employee and petitioner-bank) by virtue of the Joint Compromise Memo dated 17.06.2019, however, the High Court permitted the respondent-employee to exercise the option of availing retiral benefits and directed the petitioner-bank to pass appropriate orders.

Service Law – Respondent-employee was dismissed by petitioner-bank – Before the High Court, the parties arrived at an amicable settlement in terms of a Joint Memo dated 17.06.2019 where under the petitioner-Bank agreed to substitute the penalty of dismissal from service imposed on the respondent-employee with the penalty of reduction of time scale of pay by four stages but without adversely affecting his retiral benefits – Further, the respondent-employee was granted liberty to exercise the option of availing retiral benefits and with a further direction to the petitioner-Bank to consider and pass appropriate orders – Aggrieved by the liberty granted to the respondent-employee, petitioner- bank filed appeal:

Held: Submission of the petitioner–Bank accepted for the simple reason that even if the relationship of the employer-employee had ceased on the dismissal of the respondent-employee on 03.03.1997, once the dismissal order passed by the Disciplinary Authority and upheld by the Appellate Authority vide order dated 06.04.1997, was set aside by the High Court by virtue of the judgment dated 23.06.2005, the umbilical cord between the petitioner-Bank and the respondent-employee stood restored and there was ample opportunity for the respondent-employee to have exercised the option (pension) in terms of the Circular dated 16.04.2010, which he failed to do

– Having missed the bus, the respondent-employee could not have claimed any benefit of pension that too after entering into a Joint Memo of Settlement with the petitioner-Bank – As far as release of amount as per Joint Memo is concerned, while issuing notice on 30.06.2020 this Court permitted Joint Memo between the parties to be implemented – The petitioner-Bank did not release the amounts payable to the respondent-employee in terms of the Memo of settlement and that the said amounts were finally released as recently as on 30.09.2023 – Therefore, the respondent-employee to be compensated for illegal withholding of the settlement dues payable to him in terms of the Joint Memo dated 17.06.2019 – Having regard to the fact that this is an issue relating to withholding of retiral benefits, it is deemed appropriate to direct the petitioner-Bank to pay simple interest at the rate of 12% per annum to the respondent-employee w.e.f. 01.07.2019, till the date the said amount is released in favour of the respondent-employee. [Paras 7, 9, 10]

OTHER CASE DETAILS INCLUDING IMPUGNED ORDER AND APPEARANCES
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EXTRAORDINARY APPELLATE JURISDICTION: Special Leave Petition (Civil) No.7277 of 2020.

From the Judgment and Order dated 17.06.2019 of the High Court of Karnataka at Bengaluru in WA No.3255 of 2005.

Appearances:

Puneet Taneja, Manmohan Singh Narua, Amit Yadav, Advs. for the Petitioner.

Ayush Negi, Ms. Vishakha Upadhaya, Shikhar Chanda, Advs. for the Respondent.

JUDGMENT / ORDER OF THE SUPREME COURT
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ORDER

1. The Petitioner-Bank is aggrieved by an order dated 17th June, 2019 passed by the Division Bench of the High Court in an Intra Court Appeal¹

¹ Writ Appeal No.3255 of 2005

whereby, while taking on record the Joint Memo dated 17th June, 2019 filed by the parties, in view of the submission made by learned counsel for the respondent-employee that he would be submitting a request to the petitioner-Bank for opting for pension. The respondent-employee was permitted to exercise the option of availing retiral benefits and making a written request to the petitioner-Bank to pass appropriate orders within eight weeks thereafter.

2. Before adverting to the submissions made by learned counsel for the parties, a brief reference to the relevant facts is necessary:

3. The respondent-employee joined the services of the petitioner-Bank as an Officer Trainee on 31st March, 1969. On completion of probation, he was posted as a Probationary Junior Officer on 3rd October, 1969. On 6th August, 1982, the respondent-employee was suspended in contemplation of disciplinary proceedings. After the disciplinary proceedings were concluded, the Disciplinary Authority passed an order on 3rd March, 1997 dismissing the respondent-employee from service. The said order has been upheld by the Appellate Authority *vide* order dated on 6th April, 1997. Aggrieved by the aforesaid orders, the respondent-employee preferred a writ petition² before the High Court. *Vide* order dated 23rd June, 2005, the High Court set aside the two orders passed by the Disciplinary Authority and the Appellate Authority and the matter was remitted back to the Petitioner – Bank for reconsideration.

4. Aggrieved by the said order, the petitioner preferred an Intra Court Appeal¹ before the Division Bench of the High Court. During the pendency of the writ appeal, the parties arrived at an amicable settlement in terms of a Joint Memo dated 17th June, 2019 where under the petitioner-Bank agreed to substitute the penalty of dismissal from service imposed on the respondent-employee with the penalty of reduction of time scale of pay by four stages but without adversely affecting his retiral benefits. It was in the course of taking on record the aforesaid Joint Memo that the impugned order came to be passed granting liberty to the respondent-employee to exercise the option of availing retiral benefits and with a further direction to the petitioner-Bank to consider and pass appropriate orders on such a representation within eight weeks thereafter.

2 Writ Petition No.20386/1997

5. Aggrieved by the aforesaid liberty granted to the respondent-employee, the petitioner-Bank has filed the present petition stating *inter alia* that the High Court ought not to have permitted the respondent-employee to apply for pensionary benefits considering the fact that the entire matter was settled between the parties by virtue of the Joint Compromise Memo dated 17th June, 2019; that there was no further scope of a settlement with the petitioner-Bank and that the respondent-employee had an opportunity to opt for a pension scheme in the year 1995 when the Syndicate Bank Employees (Pension Regulations) were first notified and at that time, he was an employee of the Bank but having failed to do so then, he cannot demand that pension be released in his favour.

6. Learned counsel for the petitioner-Bank further draws the attention of this Court to the Circular dated 16th September, 2010 filed by the respondent-employee with counter affidavit (Annexure A) whereunder another opportunity was extended to those employees who had not opted for pension earlier, to enable them to do so in terms of the said circular. It is stated that despite the said option having been available to the respondent-employee in terms of the captioned circular, he had failed to exercise the same and therefore, is barred from raising the issue of exercising his option for pension as belatedly as in the year 2019.

7. We are inclined to accept the submission made by learned counsel for the petitioner-Bank for the simple reason that even if the relationship of the employer-employee had ceased on the dismissal of the respondent-employee on 3rd March, 1997, once the dismissal order passed by the Disciplinary Authority and upheld by the Appellate Authority *vide* order dated 6th April, 1997, was set aside by the High Court by virtue of the judgment dated 23rd June, 2005, the umbilical cord between the petitioner-Bank and the respondent-employee stood restored and there was ample opportunity for the respondent-employee to have exercised the option in terms of the Circular dated 16th April, 2010, which he failed to do. Having missed the bus, the respondent-employee could not have claimed any benefit of pension that too after entering into a Joint Memo of Settlement with the petitioner-Bank.

8. We are, therefore, of the opinion that no such option could have been permitted to be exercised by the respondent-employee at such a belated stage, in the year 2019.

9. At this stage, learned counsel for the respondent-employee submits that while issuing notice in the present petition on 30th June, 2020, it was made clear by this Court that directions of the Division Bench in para 6 shall not be implemented. However, the Joint Memo dated 17th June, 2019 filed in the High Court was permitted to be implemented. It is stated that in the teeth of the said order, the petitioner-Bank did not release the amounts payable to the respondent-employee in terms of the Memo of settlement and that the said amounts were finally released as recently as on 30th September, 2023. He, therefore, states that the respondent-employee ought to be compensated for illegal withholding of the settlement dues payable to him in terms of the Joint Memo dated 17th June, 2019.

10. We find substance in the aforesaid submission made by learned counsel for the respondent-employee. It was made clear to the petitioner-Bank on the very first date that the Joint Memo ought to be implemented. For reasons best known to the petitioner-Bank, the same has not been implemented. The petitioner-Bank is, therefore, directed to restitute the respondent-employee by paying him interest which in our opinion, should be more than the ordinary rate of interest on an FDR that the petitioner-Bank offers to the public at large. Having regard to the fact that this is an issue relating to withholding of retiral benefits, it is deemed appropriate to direct the petitioner-Bank to pay simple interest at the rate of 12% per annum to the respondent-employee w.e.f. 1st July, 2019, till the date the said amount is released in favour of the respondent-employee. The interest component shall be paid within four weeks from today failing which, the same shall stand enhanced from 12% to 15% per annum.

11. The Petition for special leave to appeal is disposed of on the above terms.

Headnotes prepared by:
Ankit Gyan

Petition disposed of.