

CASE NO.:
Appeal (civil) 3989 of 2007

PETITIONER:
Indian Bank & Anr

RESPONDENT:
N. Venkatramani

DATE OF JUDGMENT: 30/08/2007

BENCH:
S.B. Sinha & H.S. Bedi

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NO. 3989 OF 2007
[Arising out of SLP (Civil) No. 19062 of 2005]

S.B. SINHA, J :

1. Leave granted.

2. Meaning of the term "broken period" for the purpose of grant of pension while implementing a voluntary retirement scheme is the question involved herein.

3. Respondent was working with the appellant 1026 Bank. The terms and conditions of grant of pension to the employees of the Bank are governed by the Indian Bank Employee's Pension Regulation 1995 (for short "the Regulation"); Regulation 28 whereof, as amended with effect from 8.06.2002, reads as under:

"28. Superannuation Pension

Superannuation 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 1st day of September, 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."

4. A voluntary retirement scheme was floated by the bank on 9.11.2000. Respondent requested for his voluntary retirement. It was accepted by an order dated 10.02.2001. By then, he had completed 14 years, 9 months and 17 days of service. He filed an application for grant of pension on the premise that he was eligible therefor. It was rejected on the ground that he had not completed 15 years of service. A writ petition filed by him was dismissed by a learned Single Judge of the Madras High Court. An intra-court appeal filed thereagainst has been allowed by a Division Bench of the High Court by reason of the impugned judgment directing:

"Accordingly, while setting aside the order impugned in the Writ Petition, we direct the respondent to grant pensionary benefits under

IBVRS 2000 as per the above referred to Regulations. The arrears of pension payable to the petitioner are liable to be settled with interest. As far as payment of interest is concerned, inasmuch as the petitioner ought to have been paid pension on the date when he was relieved from the services i.e. on 10.2.2001 and since for no fault of the petitioner, he was deprived of the benefits of pension, we are of the view that the petitioner is entitled for interest on the arrears from the date of his superannuation till the date of its payments..."

5. Mr. Raju Ramchandran, learned senior counsel appearing on behalf of the appellant submitted that the High Court committed a manifest error in coming to the aforementioned conclusion as it failed to take into consideration that qualifying service for obtaining a pension was minimum fifteen years of service and Regulation 18 providing for 'broken period' would not come within the purview thereof.

6. Regulation 28 of the Regulations provides for grant of superannuation pension. Regulation 29 provides for pension on voluntary retirement after an employee has completed 20 years of qualifying service, clause (5) whereof reads as under:

"The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty-three year and it does not take him beyond the date of superannuation."

7. Although the respondent has not superannuated in terms of the said scheme, he has taken his voluntary retirement under the voluntary retirement scheme in terms whereof an ex gratia payment equivalent to sixty days' salary was to be paid apart from the other benefits, viz., gratuity payment or leave encashment, which are as under:

"1. Gratuity as per Gratuity Act/Service
Gratuity as the case may be

2 Pension (including commuted value of
pension) as per Indian Bank (Employees')
Pension Regulations 1995/Bank's
contribution towards PF as per rules.

3 Leave encashment as per rules."

8. The matter relating to pension is governed by the pension regulations.

9. We may notice that although various provisions have been made providing for qualifying service to which our attention has been drawn by Mr. Raju Ramchandran, the manner in which the period of service is to be measured is contained in Regulation 18 of the Regulations which reads as under:

"Broken period of service of less than one year:- If the period of service of an employee includes broken period of service less than one year, then if such broken period is more than six months, it shall be treated as one year and if such broken period is six months or less it shall be

ignored."

10. The term "broken lot" has been defined in Black's Law Dictionary, Sixth Edition, page 193, in the following terms:

"Broken lot. Odd lot; less than the usual unit of measurement or unit of sale; e.g. less than 100 shares of stock."

11. A person apart from being entitled to receive a superannuation pension, was also entitled to pro-rata pension if he completes a period of ten years of service.

12. A circular letter was issued by the appellant itself on 11.12.2000 which is in the following terms:

"VOLUNTARY RETIREMENT SCHEME
IN PUBLIC SECTOR BANKS-AMENDMENTS
TO BANK (EMPLOYEES') PENSION
REGULATIONS, 1995

Please refer to our circular letter No. PD/CIR/76/G2/933 dated 31st August, 2000 conveying the No Objection of the Government to banks adopting and implementing a voluntary retirement scheme for employees on the lines of what was contained in the Annexure to the circular.

As per the Scheme, an employee who is eligible and applies for voluntary retirement is entitled for the benefit of CPF, Pension, Gratuity and encashment of accumulated privilege leave, as per rules.

Bank (Employers') Pension Regulations, 1995 do not have provisions enabling payment of pension to an employee who retires before attaining the age of superannuation except under circumstances as in Regulations 29, 30, 32 and 33. We had, therefore, taken up Regulations by way of amendments to Regulation 28 so that employees who retire as above under special adhoc schemes formulated by the banks after serving for a prescribed minimum period would be eligible for prorata pension.

Government of India has after examining the proposal conveyed its approval and desires that IBA advise banks to make necessary amendment to their pension regulations as in the Annexures. We request banks to take note accordingly.

Please note that with the above amendments employees who apply for voluntary retirement after having rendered a minimum of 15 years of service under a special/adhoc scheme formulated with the specific approval of the Government and the Board of Directors, will be eligible for pro-rata pension for the period of service rendered as if they are to retire on attaining the age of superannuation on that date."

13. It may be true that various provisions of the Regulations as for example Regulations 16, 17, 19, 23, etc. provided for qualifying service. Regulation 18 is not controlled by any of the said provisions. It does not brook any restrictive interpretation. It only provides for a rule of measurement. An employee, as noticed hereinbefore, was entitled to pension provided he has completed the specified period of service. How such a period of service would be computed is a matter which is governed by the statute. It is one thing to say that a statute provides for completion of fifteen years of minimum service, but if a provision provides for measurement of the period, the same cannot be lost sight of. Provision of the Regulations which are beneficial in nature, in our opinion, should be construed liberally.

14. In State of Andhra Pradesh v. Bathu Prakasa Rao and Others [(1976) 3 SCC 301], this Court held:

"35. The District Judge had reached the conclusion that, quite apart from these technically prescribed tests for the purposes of grading, by the Directorate of Marketing and Inspection, the commonsense test was that at least 50% must be broken in order to constitute what could pass as a marketable consignment of "broken rice". He had also made the necessary allowances for foreign matter. We do not think that the test adopted by the District and Sessions Judge was either incorrect or unreasonable. Indeed, we think that the High Court was quite unjustified in interfering with this test on what seems to us like metaphysical reasoning to justify its view that, where the quantities of the whole grains and broken grains in a consignment cannot be accurately determined, the consignment should be deemed to be no longer one of rice which requires a permit. The learned Attorney General has rightly pointed out to us that at no earlier stage was it the case of the millers that mere mixture of some broken rice with some whole rice is enough to constitute the whole consignment into one of broken rice or of substance which was not "rice" at all. In our opinion, the High Court has quite erroneously held that such mixtures do not fall within the mischief provided for by the Regulation Order of 1964."

A person, thus, otherwise entitled to the benefit of a beneficial provision of a statute should not ordinarily be deprived therefrom.

15. Mr. Raju Ramchandran has relied upon a decision of this Court in Nathi Devi v. Radha Devi Gupta [(2005) 2 SCC 271] wherein while interpreting the provisions of Delhi Rent Control Act, 1958, it was held:

"21. Sections 14A or 14D carve out an exception to Section 14(1)(e) of the Act. The said provisions envisage recovery of immediate possession of the tenanted premises by (i) the members of Armed Forces, (ii) the Central Government and Delhi Administration employees who have retired or who would be retiring and (iii) where the landlord is a widow. All the aforementioned provisions refer to the immediate necessity of the landlord. 22. The provisions contained in Section 14A or 14D being in the nature of exception to the main provision, they must be construed strictly."

But, in our opinion, Regulation 28, as such, does not provide for an exception. If it is to be a rule of measurement, there is no reason as to why a literal interpretation would be impermissible.

16. In Nathi Devi (supra), this court held:

"14. It is equally well settled that in interpreting a statute, effort should be made to give effect to each and every word used by the Legislature. The Courts always presume that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. A construction which attributes redundancy to the legislature will not be accepted except for compelling reasons such as obvious drafting errors. . .

15. It is well settled that literal interpretation should be given to a statute if the same does not lead to an absurdity."

17. In any event, it is not a case where we should exercise our discretionary jurisdiction under Article 136 of the Constitution of India.

In ONGC Ltd. v. Sendhabhai Vastram Patel and Others [(2005) 6 SCC 454], this Court held:

"It is now well settled that the High Courts and the Supreme Court while exercising their equity jurisdiction under Articles 226 and 32 of the Constitution as also Article 136 thereof may not exercise the same in appropriate cases. While exercising such jurisdiction, the superior courts in India even may not strike down a wrong order only because it would be lawful to do so. A discretionary relief may be refused to be extended to the appellant in a given case although the Court may find the same to be justified in law. [See S.D.S. Shipping (P) Ltd. Vs. Jay Container Services Co. (P) Ltd.]"

18. For the reasons aforementioned, no case has been made out for interference of the impugned judgment. The appeal is dismissed with costs. Counsel's fee assessed at Rs. 25,000/-.