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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
PAMIDIGHANTAM SRI NARASIMHA; J., JOYMALYA BAGCHI; J.
July 15, 2025
CIVIL APPEAL NO. OF 2025
(Arising out of SLP (C) No._____of 2025 (@ D No. 39502/2024)
Vijay Kumar *versus* **Central Bank of India & Ors.**

Central Bank of India (Employers') Pension Regulations, 1995 - Regulation 33 - Compulsory Retirement Pension - Interpretation of 'may' in Regulation 33(1) and conjoint reading of Regulation 33(1) and 33(2) - Issue - the disciplinary inquiry against appellant was continued under Regulation 20(3)(iii) of the Central Bank of India (Officer's) Service Regulations, 1979 even after his superannuation on November 30, 2014 and pension was reduced without consultation - the Supreme Court clarified that the word "may" in Regulation 33(1) does not grant discretion to superior authority to award less than two-third of full pension - It signifies that a compulsorily retired employees is not entitled to pension if they are not otherwise eligible for it on superannuation (e.g. not completing "qualifying service"). The Court held that Regulation 33(1) and 33(2) must be read conjointly - In all cases where the full pension is admissible to a compulsorily retired employee is reduced, prior consultation with Board of Directors is directory - Prior consultation with the Board of Directors, the highest authority of the Bank is a mandatory safeguard before an employee's constitutional right to pension is curtailed - a post-facto approval cannot substitute the requirement of prior consultation. *[Relied Indian Administrative Service (S.C.S.) Association, U.P. & Ors. vs. Union of India & Ors., (1993) Supp (1) SCC 730; Paras 16, 18, 19, 21]*

Pension - Right to Property - Constitutional Protection - Court reiterated that pension is not a bounty but a valuable right to property, constitutionally protected under Article 300A - It can only be denied or reduced by clear prescription of law and with strict adherence to all procedural safeguards – Held - set aside order of High Court citing that High Court failed to read the regulation in its proper perspective and wrongly held that a compulsorily retired employee would not be entitled to any pension unless order is passed under Regulation 33(1) - Appellant was also not given opportunity of hearing prior to reducing his pension - Appeal allowed. *[Para 17]*

Central Bank of India (Employers') Pension Regulations, 1995 - Regulation 33 - Compulsory Retirement Pension - 'Competent Authority' - must be superior to the delinquent and not an officer holding rank lower than scale IV officer - Competent authority can award pension in exercise of not only original but also appellate or reviewing powers - Term 'competent authority' cannot be restricted to disciplinary authority alone. *[Paras 15]*

For Petitioner(s): Mr. Neeraj Shekhar, AOR (Arguing Counsel) Mrs. Kshama Sharma, Adv. Mr. Rajesh Kumar Maurya, Adv. Mr. Ujjwal Ashutosh, Adv. Mr. Ramendra Vikram Singh, Adv. Mr. Ram Bachan Choudhary, Adv. Mr. Amrendra Singh, Adv.

For Respondent(s): Mr. Dhruv Mehta, Sr. Adv. (Arguing Counsel) Mr. Ashish Wad, Adv. Mr. Manoj Wad, Adv. Ms. Swati Arya, Adv. Ms. Akriti Arya, Adv. Ms. Nishi Sangtani, Adv. Mr. Mohd. Hadi, Adv. M/S. J S Wad and Co, AOR

J U D G M E N T

Joymalya Bagchi, J.

1. Delay condoned. Leave granted.

2. Appeal is directed against judgment dated 22.04.2024 passed by the Patna High Court to the extent the Court upheld reduction of one-third of the pension payable to the appellant under the Central Bank of India (Employees') Pension Regulations, 1995[1].

3. Appellant while working as Chief Manager, a scale IV officer in the respondent No.1-bank was served with a Memorandum of Charge alleging that, during his tenure as Branch Manager, Dhanbad Branch he sanctioned loans in respect of 12 accounts, *inter alia*, without proper appraisal of income, nonverification of KYC compliance, without post-sanction inspection etc. exposing the bank to potential financial loss of huge amount.

4. A.K. Roy, Assistant General Manager (a scale V officer) was appointed as the Inquiry Authority (IA). During the inquiry, appellant attained superannuation on 30.11.2014 but the enquiry was continued under Regulation 20(3)(iii) of Central Bank of India (Officers') Service Regulations, 1979[2]. He submitted inquiry report holding the appellant failed to discharge his duties with utmost integrity and honesty which was unbecoming of a Bank officer and exposed the Bank to huge financial loss for his pecuniary gain. Inquiry report was served on the appellant, and he replied to it. After considering his reply disciplinary authority i.e., Deputy General Manager (a scale VI officer) upheld the findings of the inquiry officer and imposed major penalty of compulsory retirement under Rule 4 (h) of Central Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976[3] with effect from date of superannuation. Appellant submitted an appeal before appellate authority i.e., Field General Manager (a scale VII officer).

5. During pendency of the appeal, Regional Manager, Purnea, a scale IV officer, i.e., equivalent to scale of the appellant, on 05.08.2015 recommended minimum payable pension under compulsory retirement i.e., two-third pension to the appellant. Field General Manager by order dated 07.08.2015 concurred with the Regional Manager and recommended award of twothird compulsory retirement pension. Thereafter, on 30.12.2015 the said Field General Manager as the appellate authority dismissed the appellant's appeal and upheld the penalty imposed on the latter.

6. The appellant initially approached the High Court challenging validity of Regulation 20(3)(iii) of Service Regulations which enabled the Bank to continue disciplinary proceedings even after superannuation and for setting aside the order of compulsory retirement including disbursal of full retiral benefits but subsequently he restricted his challenge only to disbursal of full retiral benefits.

7. During hearing High Court was informed while the Bank had not passed any order forfeiting gratuity, it had taken decision to award two-third of the pension payable to the appellant. In these circumstances, High Court while directing release of gratuity upheld the decision of the Bank to reduce one-third of the pension payable to the appellant.

8. Being aggrieved by the reduction of one-third pension, appellant has approached this Court. Bank has contested the appellant's plea and produced additional documents, namely, recommendation letter of Regional Manager, Purnea for grant of minimum

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[1] Hereinafter, Pension Regulations.

[2] Hereinafter, Service Regulations.

[3] Hereinafter, Discipline and Appeal Regulations.

pension and the sanction letter of such pension by Field General Manager awarding two-third pension to the appellant.

9. Mr. Neeraj Shekhar contended pension is not a bounty and appellant's right to pension is constitutionally protected under Article 300A. Such right could not be taken away save and except by a clear prescription of law. High Court erred in holding that a compulsorily retired employee is not entitled to pension at all unless an order under regulation 33(1) of the Pension Regulations is passed. Regulation 33 (1) and (2) must be harmoniously construed to mean in cases where penalty of compulsory retirement is imposed, such employee has a right to receive pension not less than two-third of the full pension and such deduction can be made only after prior consultation with the Board of Directors.

10. Per contra, Mr. Dhruv Mehta, learned Senior Counsel submitted a plain reading of regulation 33 (1) and (2) would show the clauses are mutually exclusive and operate in different circumstances which do not overlap each other. As per clause (1), an authority higher than the authority competent to impose compulsory retirement penalty may grant pension at a rate not less than two-third whereas clause (2) permits the competent authority awarding compulsory retirement to award less than full pension in exercise of its original, appellate or reviewing powers. Only in the latter case consultation with Board of Directors is necessary. As the pension was reduced by the Field General Manager, a scale VII officer who is an authority higher in rank than the disciplinary authority, a scale VI officer no prior consultation was necessary, and the impugned decision did not call for interference.

11. The controversy centres around interpretation of regulation33 of the Pension Regulations which provides for compulsory retirement pension as follows: -

"33. Compulsory Retirement Pension - 1. An employee compulsorily retired from service as a penalty on or after 1st day of November, 1993 in terms of Central Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976 or awards/settlements may be granted by the authority higher than the authority competent to impose such penalty, pension at a rate not less than two-thirds and not more than full pension admissible to him on the date of his compulsory retirement if otherwise he was entitled to such pension on superannuation on that date.

2. Whenever in the case of a bank employee the CompetentAuthority passes an order (whether original, appellate or in exercise of power of review) awarding a pension less than the full compensation pension admissible under these regulations, the Board of Directors shall be consulted before such order is passed.

3. A pension granted or awarded under clause (1) or, as thecase may be, under clause (2), shall not be less than the amount of rupees three hundred and seventy-five per mensem."

12. Clause (1) provides for granting pension at a rate not less than two-third and not more than full pension by an authority higher than the authority competent to impose penalty of compulsory retirement. Clause (2) enjoins whenever a competent authority passes an order awarding pension less than full compensation pension in exercise of original, appellate or review powers, Board of Directors must be consulted before such order is passed. In no case the pension awarded shall be less than Rs.375/- per mensem.

13. 'Competent Authority' is defined in both Discipline and Appeal Regulations and Pension Regulations as an authority appointed by the Board for the purpose of such regulations. In the Discipline and Appeal Regulations, it is further clarified Competent Authority must be superior to the delinquent and not an officer holding rank lower than scale IV officer. Clause 3(b) of Discipline and Appeal Regulations read with

Schedule[4]shows that an officer not below rank of Assistant General Manager and holding a rank higher than the disciplinary authority is the appellate authority under such regulation. A combined reading of the provisions in both the regulations would indicate a Field General Manager (holding a rank superior to disciplinary authority and higher than Assistant General Manager) is not only an authority superior to the disciplinary authority empowered to reduce pension under clause (1) but also the appellate authority under Discipline and Appeal Regulations who could exercise appellate powers to reduce pension under clause (2) of Pension Regulations.

14. The bank would argue as pension was reduced under regulation 33(1) by Field General Manager as an authority superior to disciplinary authority competent to impose penalty, no prior consultation with Board was necessary, unlike cases where Competent Authority i.e., disciplinary authority while awarding compulsory retirement directs pension less than full compensation pension.

15. Such argument is fallacious for following reasons. Clause (2) permits the Competent Authority to award pension in exercise of not only original but also appellate or reviewing powers. If the expression 'Competent Authority' in clause (2) is restricted to disciplinary authority alone, reduction of pension in exercise of appellate or review power would become nugatory. Any interpretation which renders words or expressions in a statute otiose ought to be eschewed.[5]

16. Given this situation to accept the bank's interpretation that the two clauses ought to be read independent of one another would give rise to a piquant situation where the selfsame authority, i.e., Field General Manager reducing pension under clause (1) would not require prior consultation with the Board which is mandatory while exercising similar power under clause (2). To avoid this anomaly whenever a superior authority reducing pension under regulation 33(1) is also appellate authority or reviewing authority who is empowered to exercise power under clause (2), the requirement of prior consultation with the Board must be held to be mandatory, failing which requirement of such prior consultation may be circumvented by the bank to the prejudice of the employee.

17. There is no cavil that pension is not a discretion of the employer but a valuable right to property and can be denied only through authority of law. When an authority is vested with the discretion to grant pension less than full pension admissible under the Pension Regulations, all procedural safeguards in favour of the employee including prior consultation must be strictly followed.

18. High Court failed to read the regulation in its proper perspective and went a step ahead to hold that a compulsorily retired employee would not be entitled to any pension unless an order is passed under regulation 33 (1). A combined reading of the clauses in regulation 33 clearly indicates that the pension payable to an employee who has been compulsorily retired as a penalty shall not be less than two-third of his full pension or Rs. 375 per mensem, whichever is higher. The word '*may'* occurring in clause (1) does not give discretion to superior authority to award pension less than two-third of the full pension. High Court misinterpreted the word 'may' in the clause to hold that grant of pension is discretionary. The word 'may' must be read in its proper context, that is to say, it was used in the regulation not to vest discretion in the superior authority to grant pension less than

[4] Schedule to Discipline and Appeal Regulations "2. Any Officer employee of the Bank higher in rank and status than the Disciplinary Authority but no lower in rank and status than an Assistant General Manager shall be competent to act as the Appellate Authority within the meaning of Regulation 17."

[5] Rao Shiv Bahadur Singh v. State of Uttar Pradesh, (1953) 2 SCC 111.

two-third of full pension payable but to clarify that the aforesaid clause will not entitle a compulsorily retired employee to pension if he is not otherwise entitled to such pension on superannuation on that day. For example, if an employee is compulsorily retired without completing 'qualifying service' making him eligible to pension under the regulations.

19. *In fine*, we hold clause (1) and clause (2) of regulation 33 must be read conjointly and in all cases when the full pension admissible to a compulsorily retired employee under the regulations is reduced, a prior consultation with the Board is necessary.

20. It would be argued the Field General Manager's order to reduce pension may be placed before the Board for *ex-post facto* approval. Whether 'prior consultation' is mandatory or a *post facto* approval would suffice would depend on various factors including nature of consultation, status of the authority consulted, and the rights affected by the decision.

21. A plain reading of regulation 33 would show award of pension less than full pension is to be done with prior consultation of the Board of Directors. Such prior consultation with the highest authority of the Bank i.e., Board of Directors must be understood as a valuable mandatory safeguard before an employee's constitutional right to pension is curtailed. In these circumstances, a *post facto* approval cannot be a substitute of prior consultation with the Board before the decision is made. Reference may be made to *Indian Administrative Service (S.C.S.) Association, U.P. & Ors. vs. Union of India & Ors.*[6] wherein the parameters to decide whether prior consultation is mandatory or directory have been succinctly elucidated:-

***"26.** The result of the above discussion leads to the following conclusions:*

(1) Consultation is a process which requires meeting of mindsbetween the parties involved in the process of consultation on the material facts and points involved to evolve a correct or at least satisfactory solution. There should be meeting of minds between the proposer and the persons to be consulted on the subject of consultation. There must be definite facts which constitute the foundation and source for final decision. The object of the consultation is to render consultation meaningful to serve the intended purpose. Prior consultation in that behalf is mandatory.

(2) When the offending action affects fundamental rights or toeffectuate built-in insulation, as fair procedure, consultation is mandatory and non-consultation renders the action ultra vires or invalid or void.

(3) When the opinion or advice binds the proposer, consultationis mandatory and its infraction renders the action or order illegal.

(4) When the opinion or advice or view does not bind the personor authority, any action or decision taken contrary to the advice is not illegal, nor becomes void.

(5) When the object of the consultation is only to apprise of theproposed action and when the opinion or advice is not binding on the authorities or person and is not bound to be accepted, the prior consultation is only directory. The authority proposing to take action should make known the general scheme or outlines of the actions proposed to be taken be put to notice of the authority or the persons to be consulted; have the views or objections, take them into consideration, and thereafter, the authority or person would be entitled or has/have authority to pass appropriate orders or take decision thereon. In such circumstances it amounts to an action "after consultation".

(6) No hard and fast rule could be laid, no useful purpose wouldbe served by formulating words or definitions nor would it be appropriate to lay down the manner in which consultation must take place. It is for the Court to determine in each case in the light of its facts and

[6] (1993) Supp (1) SCC 730.

circumstances whether the action is "after consultation"; "was in fact consulted" or was it a "sufficient consultation".

(7) Where any action is legislative in character, the consultationenvisages like one under Section 3(1) of the Act, that the Central Government is to intimate to the State Governments concerned of the proposed action in general outlines and on receiving the objections or suggestions, the Central Government or Legislature is free to evolve its policy decision, make appropriate legislation with necessary additions or modification or omit the proposed one in draft bill or rules. The revised draft bill or rules, amendments or additions in the altered or modified form need not again be communicated to all the concerned State Governments nor have prior fresh consultation. Rules or Regulations being legislative in character, would tacitly receive the approval of the State Governments through the people's representatives when laid on the floor of each House of Parliament. The Act or the Rule made at the final shape is not rendered void or ultra vires or invalid for non-consultation."

22. Mr. Mehta finally in a last bid endeavour requested us to invoke powers under Article 142 to do complete justice and endorse the decision of the reduction of pension in the present case.

23. Though it is claimed that the delinquent acts of the appellant had caused an approximate loss to the tune of Rs. 3.26 crores to the bank, no evidence relating to the computation of such loss was either considered by the disciplinary authority or by the appellate authority. Further, no opportunity of hearing was given by the authorities prior to reducing his pension. No exceptional case to exercise our extraordinary powers under Article 142 is made out.

24. Accordingly, we allow the appeal and set aside the order of the High Court and order of the Field General Manager dated 07.08.2015 reducing pension without prior consultation of the Board of Directors. It shall be open to the Bank to take appropriate decision regarding reduction of pension after giving an opportunity of hearing to the appellant and with prior consultation of the Board within two months from the date of this judgment failing which the appellant shall be entitled to full pension from the date of superannuation.