

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Adnan Iqbal Chaudhry

(1)

No. C.P. No.D-8126/2017

Riaz Ahmed
Versus
Federation of Pakistan & another

(2)

No. C.P. No.D-3653/2018

Riaz Ahmed & others
Versus
Federation of Pakistan & another

(3)

No. C.P. No.D-5938/2018

Riaz Ahmed & others
Versus
Federation of Pakistan & another

Date of Hearing: 30.09.2019

Petitioners in all petition: Through Mr. Faiz Rasool Jalbani Advocate

Respondent No.1: Through Mr. M. Nishat Warsi, Deputy Attorney General.

Respondent No.2 in CP Through Mr. Ch. Muhammad Ashraf Khan
No.D-8126/2017 & CP a/w Mr. Aamir Latif Advocates.
No.D-3653/2018:

Respondent No.2 in CP Through Mr. Nabi Bux Laghari holding
No.D-5938/2018: brief for Mr. Umer Abdullah Advocate.

J U D G M E N T

Muhammad Shafi Siddiqui, J.- These three petitions are filed by petitioners wherein claim of petitioners are common extending to the extent of medical facilities in view of Instruction Circular No.804, commuted portion of pension along with time to time increase in view of

Circular No.2281 dated 26.12.1977 and entitlement to the regular retirement benefits.

2. The case of petitioners is that in 1997 the respondent bank offered Golden Handshake Scheme to its staff. The petitioners opted to avail such scheme which was accepted by the respondent bank and the petitioners were accordingly retired from their service under Golden Handshake Scheme in 1997-1998. It is the case of petitioners that on completion of period of ten years or more the right of petitioners to claim medical facilities and benevolent funds, to which regular retired employees are entitled to, matured in favour of petitioners as well. It is further the case of petitioners that regular retired employees were entitled to have medical facilities for life whereas period of provision of benevolent fund grant to a regular retired employee has been held to be of 15 years, It is thus claimed that the petitioners are deprived of such rights as was available under the law by introduction of Golden Handshake Scheme. Petitioners claimed to have applied for such benefits as by efflux of time they have attained period of regular retired employees despite execution of Golden Handshake Scheme agreement.

3. Petitioners claimed to have filed writ petition bearing WP No.22592 of 2012 before learned Lahore High Court which petition was disposed of by directing respondents to decide representation of petitioners, which include the claim of petitioners as being regular employee being retired, in accordance with law.

4. On these facts and circumstances counsel for the petitioners and respondents were heard and we have also perused documents available on record as well.

5. A Golden Handshake Scheme with special separation package was offered to the employees of respondent bank. It is a monetary separation scheme and a comprehensive package was proposed to all

employees who wanted to opt for such separation. In consideration of such offer, the petitioners also opted to have a Golden Handshake Scheme. The petitioners agreed that the Golden Handshake Scheme is a special separation package which include “regular retirement benefits” and shall not be quoted as precedent in future. This is highlighted under head of “Features” in the option form. In terms of Clause 2 of this contract the employees who were eligible for retirement benefits as per the service rules of bank, were paid 100% commutation instead of 50% commutation of their pension as full and final settlement. Similarly, in terms of paragraph 5 of this contract towards medical facilities to the employees who were eligible for normal retirement benefits, an amount equal to 10 years normal post-retirement medical annual monetary ceiling, which were then available to retired employees, were paid in lump sum as final settlement.

6. Thus, all three aspects of the case i.e. regular post-retirement benefits, pensionary benefits and medical benefits were dealt with and the petitioners’ claim were satisfied and settled, as agreed. Hence, this package cannot be said to be an arbitrary or unilateral as they (petitioners) understood all terms of the contract and/or Golden Handshake Scheme, which apparently is neither in conflict of the Constitution nor of any law.

7. These questions came up for consideration before Hon’ble Supreme Court in the case of National Bank of Pakistan v. Nasim Arif Abbasi reported in 2011 SCMR 446 where a number of petitions were decided by Hon’ble Supreme Court. The Hon’ble Supreme Court while considering the alleged claim of employees who opted for Golden Handshake Scheme observed as under:-

“13. But the fact of the matter is that the respondents, having exercised the option to retire under the GHS, were deemed to be retired from service on and

from the cut-off date. On that score, they could not be treated at par with those employees who had not exercised such an option and were still continuing in service. A reasonable classification in terms of the law laid down by this Court in I.A. Sharwani v. Government of Pakistan (1991 SCMR 1041) did exist between the two categories of employees, i.e. those who had exercised the option and those who had not exercised the option. As such, the learned counsel for the respondents failed to point out discrimination prohibited under Article 25 of the Constitution. The learned counsel for the appellant-Bank has rightly contended that at the time of receiving the pensionary benefits worked out under the GHS, none of the respondents had raised the issue of admissibility of the ad hoc relief granted subsequently. Rather, all of them had received the said dues without any objection on that score. Thus, they could not have competently resorted to legal proceedings, either before the Service Tribunal or before the High Court, that too after efflux of a long time in many of the cases, for the purpose of getting such ad hoc relief or other emoluments, such as annual increments etc., taken into consideration and getting the retirement benefits recalculated. In this view of the matter, no valid grievance could be made on account of the fact that they were actually relieved from service on a subsequent date. The fact remains that they were paid emoluments in full for the period they worked after they had opted for retirement under the GHS and had received the retirement benefits accordingly. Thus, on merits no case is made out in favour of the respondents.”

8. Similar is the case here that after availing the benefits of Golden Handshake Scheme, petitioners are now extending their claim as if they are retired after reaching age of superannuation, which is not the case here. The petitioners cannot be allowed to approbate and reprobate.

9. Petitioners have earlier opted to avail such benefits by filing Writ Petition before Lahore High Court as W.P. No.22592 of 2012 which was disposed of by directing the bank to decide the representation pending before it. After considering the representation, the claim of petitioners was rejected followed by dismissal of contempt application on 09.04.2018. Thus, the petitioners have not been able to made out any

case insofar as financial claim in terms of prayer clauses of these petitions are concerned.

10. In view of above, the petitions were dismissed vide short order dated 30.09.2019, of which these are the reasons.

Dated:

Judge

Judge