

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9830 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 17519 OF 2014]

INDIAN OVERSEAS BANK & ORS.

APPELLANT(S)

VERSUS

RATTAN SINGH

RESPONDENT(S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. The appellants are before this Court aggrieved by the judgment of the High Court dated 21.02.2014. The case pertains to the application of Voluntary Retirement Scheme (for short 'VRS') by the respondent. The stand taken by the Division Bench is that since the respondent withdrew the offer for VRS prior to the communication of the acceptance, there is no VRS in the eye of law and, therefore, the High Court set aside the termination of the respondent on VRS and ordered reinstatement with all consequential benefits.

3. Prima facie, we find it difficult to appreciate

the stand taken by the High Court. The scheme of VRS varies from institution to institution. In the case of the appellants it is specifically stipulated that once an officer/employee exercises the option it will not be open for him/her to withdraw the request made for voluntary retirement under the scheme after having exercised such option. The option once exercised is irrevocable.

4. Be that as it may, when the matter was being heard, we sought the assistance of Mr. Kailash Vasudev, learned senior counsel, as to whether an amicable settlement of the dispute leaving the question of law open can be arrived at, since it is a case of only one employee, in whose favour there is a judgment of the High Court. Mr. Kailash Vasudev, learned senior counsel, has made certain suggestions. Mr. Gourab Benerji, learned senior counsel appearing for the appellants submits that being a financial institution, it may not be possible for the Bank to accept the suggestions by way of a volunteered settlement from the Bank.

5. After having heard Mr. D.K. Garg, learned counsel appearing for the respondent, we are of the view that having regard to the peculiar facts of this case, this is a fit case to invoke our jurisdiction under Article 142 of the Constitution of India,

particularly in view of the fact that the respondent has been a beneficiary of the judgment of the High Court and he is the only person involved in this dispute.

6. Therefore, for doing complete justice, we order as follows:-

i. The respondent shall be treated to be in continuous service for all purposes till his date of superannuation.

ii. The respondent shall be allowed to work from 1.8.2017. In case there is any technical delay he shall be deemed to have joined duty on 1.8.2017.

iii. Since the service has been treated as continuous for all purposes, whatever benefits the respondent would have earned in the normal channel would be available to him when he joins back.

iv. The respondent shall not be entitled to any backwages from the date of termination in 2001 to the date of judgment of the Division Bench of the High Court i.e. 21.02.2014. However, the service will be treated, as directed above, as continuous for all other purposes.

v. The respondent shall, however, be entitled to 50% of the backwages from 21.02.2014 to 31.7.2017.

vi. The appellants are permitted to withdraw forthwith the amount credited to the account of the respondent as VRS benefits along with the accrued interest.

vii. Since the respondent is permitted to be treated as a regular employee for all other purposes, needless to say that the pension and pensionary benefits will be settled accordingly. However, for the purpose of terminal benefits, those benefits shall be settled by extending a similar treatment as given to the employee was immediately immediate junior to the appellant.

viii. Since the respondent has foregone his entire backwages from 2001 to 2014 and 50% from 2014 to 31.07.2017, we make it clear that the appellants shall not make any demand for contribution towards pension.

7. Subject to the above, we set aside the impugned judgment of the High Court. The appeal is allowed to the extent indicated above.

8. Pending applications, if any, shall stand disposed of.

9. There shall be no orders as to costs.

.....J.
[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

NEW DELHI;
JULY 27, 2017.

ITEM NO.2

COURT NO.6

SECTION XVI -A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 17519/2014

(Arising out of impugned final judgment and order dated 21-02-2014
in LPA No. 244/2006 passed by the High Court Of J & K At Jammu)

INDIAN OVERSEAS BANK & ORS.

PETITIONER(S)

VERSUS

RATTAN SINGH

RESPONDENT(S)

Date : 27-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MRS. JUSTICE R. BANUMATHI

Amicus Curiae Mr. Kailash Vasudev, Sr. Adv.

For Petitioner(s) Mr. Gaurab Benerji, Sr. Adv.
Ms. Mayuri Raghuvanshi, AOR
Mr. Vyom Raghuvanshi, Adv.
Ms. Manisha Singh, Adv.

For Respondent(s) Mr. Dinesh Kumar Garg, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed judgment.

(NARENDRA PRASAD)
COURT MASTER (SH)

(RENU DIWAN)
ASST. REGISTRAR

(Signed "Non-Reportable" Judgment is placed on the file)