

that a chronic disease and more particularly a malignant one destroys not only the financial but even the emotional health of the family and takes a very heavy toll on all who come into contact with the patient. To my mind, therefore, paragraph 3 of the Government Instructions Annexure P-9, insofar as they deny the benefit of full reimbursement of medical expenses incurred on account of treatment as an outdoor patient cannot be justified on the touchstone of Articles 14 and 21 of the Constitution as well as Ram Lubhaya Bagga's case (supra) therefore cannot come to the aid of the respondents.

(7) I am, therefore, of the opinion that the present petition deserves to succeed and the same is accordingly allowed. Paragraph 3 of the government instructions Annexure P-9, dated 11th August, 1992 insofar as they deny the benefit of full medical reimbursement to an outdoor patient is quashed and a direction is issued to the respondents to make full reimbursement of the medical expenses incurred by the petitioner both as an indoor and an outdoor patient within a period of one month from the date that a certified copy of this order is supplied to them. The petitioner shall also have her costs which are quantified at Rs. 1000 Dasti order

S.C.K.

Before Jawahar Lal Gupta, J

UCO BANK & OTHERS,—Appellants

versus

SANWAR MAL,—Respondent

RSA No. 1398 of 1997

The 8th July, 1998

*UCO Bank (Employees) Pension Regulations, 1995—Reg. 14—
An employee rendering minimum of 10 years service entitled to
pension—Employee having resigned—Such employee whether entitled
to pension.*

Held that, it is true that there is a distinction between resignation and retirement. However, in the context of the present situation where the purpose of pension is to reward an employee for the past satisfactory service rendered by him, there appears to be no rationale for denying the benefit to the respondent. The situation could be different if he was under a cloud. Supposing there was a charge sheet pending against

him and the respondent had resigned from service, the Bank could have legitimately agitated that he has resigned to run away to avoid the imposition of a penalty. Such was not the situation. He had resigned at a time when the pension scheme did not exist. The scheme was introduced only in the year 1995 when the statutory regulations were notified. In this situation, there appears to be no ground to interfere with the concurrent findings recorded by both the Courts below.

(Para 8)

Surya Kant, Advocate, for the Appellants.

JUDGMENT

Jawahar Lal Gupta, J. (Oral)

(1) The plaintiff respondent's claim for pension having been upheld by both the Courts, the Bank has filed this second appeal. A few facts :—

(2) The plaintiff-respondent had joined service as a Peon with the UCO Bank on 29th December, 1959. In the year 1980 he was promoted to the post of Clerk. In February, 1988 he requested the Bank to relieve him to his duties so as to enable him to start his own work. On 24th March, 1988 the respondent was relieved from the service of the Bank.

(3) On 27th May, 1994, the Bank circulated a letter regarding the implementation of the pension scheme. It was stated that this scheme shall be applicable to the employees who have retired on or after 1st January, 1986 and before 1st November, 1993. The employees had to exercise "irrevocable option" within four months. They were required to refund the Bank's entire contribution to Provident Fund including interest received thereon alongwith simple interest of 6% per annum from the date of withdrawal till the date of refund. On 29th September, 1995 the Bank framed Regulations called the UCO Bank (Employees') Pension Regulations, 1995. These Regulations were *inter-alia* made applicable to employees who were in the service of the Bank on or after the 1st day of January, 1986 but had retired before the 1st day of November, 1993. By Regulation '5' it was provided that "the Bank shall constitute a Fund to be called the UCO Bank (Employees') Pension Fund". There was also provision for the constitution of a Board of Trustees. Regulation '14' provided that "subject to the other conditions contained in these regulations, an employee who has rendered a minimum of ten years of service in the Bank on the date of his retirement or the date on which he is deemed to have retired shall qualify for

pension". Under the Regulation, even the service on probation and the period during which an employee remained on leave was also countable towards the qualifying service. Regulation '22' inter-alia provided that "resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits".

(4) It appears that in response to the Circular of 27th May, 1994 the plaintiff-respondent gave his option for the grant of benefit under the pension scheme. However, the papers were returned in original,—vide letter dated 17th October, 1994 on the ground that the plaintiff-respondent have resigned cannot be said to have retired. Thus, he was not qualified, for the grant of pension. Faced with this situation, the respondent had filed a suit for a declaration that he was entitled to the pension. He had also prayed for the issue of a mandatory injunction directing the Bank to make the payment of all the arrears alongwith interest.

(5) The suit of the plaintiff-respondent was decreed by the trial Court. The appeal filed by the Bank having been dismissed, it has filed the present second appeal.

(6) Mr. Surya Kant, learned counsel for the appellant, has contended that in view of the provisions of Regulation '22' of the 1995 Regulations as referred to above, the plaintiff-respondent is not entitled to the grant of any pension as he had actually resigned from the job of the Bank and had not retired.

(7) Admittedly, the respondent had submitted his letter of resignation on 25th February, 1988. He had done so with the sole purpose of "starting his own work". He was not under any cloud. There were no allegations or charge sheet pending against him. Even his explanation had not been called. Still further, it is the admitted position that in the year 1988, the pension scheme or the statutory regulations had not been finalised or notified. However, in the year 1994 the Bank had prepared a scheme for the grant of pension to the employees who were in service on 1st January, 1986 but had retired before 1st November, 1993. It is also the admitted position that the respondent had actually served the Bank for more than 28 years and that there was no blemish on his entire record. It is in this situation that the claim of the Bank with regard to the admissibility of pension to the respondent has to be considered.

(8) It is true that there is a distinction between resignation and retirement. However, in the context of the present situation where the

purpose of pension is to reward an employee for the past satisfactory service rendered by him, there appears to be no rationale for denying the benefit to the respondent. The situation could be different if he was under a cloud. Supposing there was a charge sheet pending against him and the respondent had resigned from service, the Bank could have legitimately agitated that he has resigned to run away to avoid the imposition of a penalty. Such was not the situation. He had resigned at a time when the pension scheme did not exist. The scheme was introduced only in the year 1995 when the statutory regulations were notified. In this situation, there appears to be no ground to interfere with the concurrent findings recorded by both the Courts below.

(9) Mr. Surya Kant submits that the respondent had not challenged the vires of the regulations. That being so, he was not entitled to the benefit. The plea is untenable. The date on which the plaintiff-respondent had approached the Court, no statutory regulations had come into existence. Admittedly, the regulations had been notified on 29th September, 1995. The suit had been filed by the plaintiff-respondent in the year 1994. In fact, learned counsel states that the suit was filed in November, 1994. On that date the regulations did not exist. The occasion for the plaintiff-respondent to challenge the vires was not there.

No other point has been raised.

(10) In the facts and circumstances of the case, there is no equity in favour of the Bank so as to call for any interference with the orders of the Courts below.

(11) Resultantly, the appeal is dismissed in limine. However, there shall be no order as to costs.

S.C.K.

Before Jawahar Lal Gupta, J.
SARABJIT SINGH,—*Petitioner*

versus

MANTAR SINGH,—*Respondent*

E.P. No. 10 of 1997

21st July, 1998

Representation of Peoples Act, 1951—Ss. 33 & 36—Election Symbols (Reservation and Allotment) Order, 1968—Cl. 13—Candidate filing nomination as a candidate of recognised political party—Nomination paper signed by one elector—Candidate not producing