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SLP(C)No. 14165 OF 2001

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 2836 of 2002@@

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arising out of

Special Leave Petition (C) No. 14165 of 2001@@

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Tej Ram ...Appellant (s)

Versus

Indian Overseas Bank & Ors. ...Respondent(s)

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Leave granted.

This appeal is directed against the judgment of the High Court of Punjab & Haryana.

The appellant who was an employee of Indian Overseas Bank, approached the High Court for directing the Bank to allow him to be in the Pension Scheme in accordance with the Scheme of 1994 as well as the regulation that was framed called "Staff Pension Scheme under the Indian Overseas Bank Employees' (Pension) Regulation of 1993". The High Court, however, came to the conclusion that since the employee had not indicated the authorisation, which he was supposed to have done within 60 days from the date of the promulgation of the Scheme, the Bank was justified in refusing his prayer.

Mr. Upadhyaya, learned counsel appearing for the appellant, contends that in accordance with the Scheme that came into existence on 4.6.1994, the appellant did exercise his option on 2.9.1994. It was clearly indicated in that option that the employee wants to become a member of the banks pension scheme and irrevocably authorized the bank/trustees of

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the contributory fund to transfer the entire contribution of the Bank along with the interest accrued thereon to the credit of the pension fund to be created for the purpose. The appellant further indicated that with effect from 1st November, 1993 the Bank shall not make any contribution to the Provident Fund Account of the employee concerned. It is not disputed by the Bank that the aforesaid authorization was duly received by the Bank. Subsequent to the afore-said authorization, the employer promulgated the regulation by Notification dated 1.11.1995. The regulation contained a provision that in case an employee belonging to category 3 who had already opted for pension, he will authorize the trustees of the Bank within 60 days to transfer the entire contribution of the Bank from the provident fund including the interest accrued thereon to the Indian Overseas Bank (Employees' Pension Fund. The dispute really centres round the question whether the aforesaid provision was duly complied with or not.

According to the appellant he did authorize the Bank in terms of the aforesaid regulation whereas according to the bank the so-called authorization did not reach the bank within 60- days as required under the regulation, though it is not disputed that the so-called authorization reached the Bank later than the date on which it ought to have reached. Mr. Upadhyay further contends that in view of earlier unequivocal authorization and the subsequent authorization being there before the authority, the authority should have permitted the

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employee to come over to the pension scheme. Learned counsel for the bank on the other hand contended that the regulation admits of no ambiguity and any employee who fails to authorize within 60 days of the promulgation of the scheme cannot claim as of right to be brought over to the pension scheme, and therefore refusal to bring over the appellant to the pension scheme cannot be held either arbitrary or illegal.

Having heard the learned counsel for the parties and on examining the relevant materials produced before us, even assuming that the subsequent authorization did not reach the employer within 60 days; but later than 60 days, we think it would be equitable to allow the appellant to be brought over to the pension scheme evolved by the Bank particularly when the entire contributory provident fund stood transferred to the bank accounts and there has been no contribution from the bank since November 1993.

In the aforesaid circumstances, we set aside the impugned judgment of the High Court and direct that the appellant be brought over to the pension scheme of the Bank and appropriate pension amount be sanctioned in his favour. This may be done within three months from today.

The appeal stands disposed of accordingly.

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(G.B. PATTANAIAK)@@
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New Delhi;

April 19, 2002.

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(BRIJESH KUMAR)@@
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ITEM No.202

Court No. 3

SECTION IVB

A/N MATTER

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 (Civil) No.14165/2001

(From the judgement and order dated 03/05/2001 in CWP 614/2000 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

TEJ RAM

Petitioner (s)

VERSUS

INDIAN OVERSEAS BANK & ORS.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 19/04/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIK
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. S.B. Upadhyay, Adv.
Mr. Aftab Ali Khan, Adv.
Mr. Goodwill Indeevar, Adv.

For Respondent (s) Mr.K.N. Balgopal, Adv.
Mr. Devendra Singh, Adv.

UPON hearing counsel the Court made the following
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Having heard learned counsel for the parties for 20 minutes, the Court granted leave and disposed of the appeal in terms of the signed order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)