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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% **Date of decision: 14.11.2025**

\+ W.P.(C) 8822/2019

ROHIT KHANDELWAL .....Petitioner

Through: Mr. Aaditya Vijay Kumar & Ms. Chinmayee, Advocates.

versus

NATIONAL INSURANCE COMPANY LTD .....Respondent

Through: Ms. Hetu Arora Sethi & Ms. Kanak Bathwal, Advocates.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN

AVNEESH JHINGAN, J. (ORAL)

1. This petition is filed seeking directions to the respondent for grant of benefits under the General Insurance Employees Pension Scheme, **1995** (hereinafter referred to as '1995 Scheme').

2. The brief facts are that the petitioner joined the National Insurance Company (for brevity 'NIC') on 05.03.1993. The petitioner on 04.07.2014, issued notice for resigning and with a request to treat it as voluntary retirement from the service. On 07.10.2014, the NIC accepted the resignation but the request for voluntary retirement was rejected for the reason that the petitioner was not fulfilling the pre-requisites for taking voluntary retirement.

2.1 On 24.04.2019, the petitioner filed an application with the company that the resignation be treated as voluntary retirement and the benefit of the pension under 1995 Scheme be extended to the petitioner. The application was rejected vide communication dated 03.06.2019. and hence, the present petition.

3. Learned counsel for the petitioner submits that by serving the notice dated 04.07.2014, the petitioner intended to take voluntarily retirement. Clause 2(t) of the 1995 scheme is relied upon to contend that retirement includes voluntary retirement.

3.1 Submission is that the petitioner after having fulfilled twin condition stipulated under Clause 30 of the 1995 Scheme of serving ninety days notice and having completed twenty years of service, is entitled to pension on voluntary retirement and therefore resignation should be treated as voluntary retirement.

3.2 Decisions of the Supreme Court in ***SheelKumar Jain v. New India Assurnace Company Limited and Others, (2011) 12 SCC 197*** *and* ***Shashikala Devi v. Central Bank of India (2014)16 SCC 260*** are relied upon to contend that petitioner shall not be deprived from the benefits of pension scheme on the basis that the petitioner resigned and was not voluntarily retired.

4. Learned counsel for the respondent contends that the petitioner never opted for pension scheme and had not rendered service with pension scheme. Petitioner was not eligible for taking voluntary retirement having neither completed 55 years of age nor rendered twenty years of service with pension scheme. The argument is that acceptance of resignation on 7.10.2014 and holding the petitioner ineligible for voluntary retirement was not challenged.

5. Clause 29 of the 1995 Scheme deals with pension on superannuation. It stipulates that the employee retiring on the age specified in Para 12 of

General Insurance (Rationalisation & Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical & Subordinate Staff) Scheme, 1974 (here in after referred to as 'Scheme of 1974') and Para 4 of the General Insurance (Termination, Superannuation & Retirement Of Officers And Development Staff) Scheme 1976, (for brevity 'Scheme of 1976') the employees shall be entitled to pension.

5.1 Clause 30 of the 1995 scheme deals with pension on voluntary retirement. Under sub-clause (1) on completion of twenty years of service, the employee may by giving ninety days notice in writing, retire from service. Sub clause (2) requires the acceptance of the notice of voluntary retirement by the appointing authority.

5.2 The clause 2(t) of the 1995 scheme defines retirement to be in accordance with the provisions contained in Para 12 of Scheme of 1974 and Para 4 of the Scheme of 1976 and includes voluntary retirement in accordance with the provisions contained in Para 30 of the 1995 Scheme.

6. By serving the notice dated 04.07.2014 petitioner wished to resign from service for personal reasons. In second para request was to consider the notice for accepting voluntary retirement. Vide communication dated 07.10.2014 the resignation of the petitioner was accepted. The request for voluntarily retirement was rejected, holding that petitioner was not fulfilling either the condition of having attained the age of 55 years or having twenty years of service with pension scheme and was not eligible for taking voluntary retirement.

7. The rejection of the application of the petitioner for voluntary retirement and acceptance of resignation was not challenged by the petitioner and attained finality. There cannot be dispute on the proposition

that the acceptance of the resignation washes the previous service rendered by the employee.

8. Another angle to be considered is that the petitioner after more than five and a half years of acceptance of the resignation submitted an application on 24.04.2019 that the resignation be treated as voluntary retirement which was rightly rejected. Even in the writ it is not pleaded that the petitioner was 55 years of age at the time of serving notice or had twenty years of service with pension scheme and was eligible for taking voluntary retirement. In other words neither in the application nor in the writ it was claimed that the petitioner was eligible for taking voluntary retirement.

9. The issue emphatically raised by the learned counsel for the petitioner that the resignation be treated as voluntary retirement and thereafter the benefit of pension scheme be extended to the petitioner by treating him to be a voluntarily retired employee, lacks merit. Not only the acceptance of resignation of the petitioner has attained finality but also the unchallenged conclusion arrive therein that the petitioner was ineligible for taking voluntary retirement. In such circumstances the issue as to whether the intent of the petitioner while giving notice was to resign or take voluntary retirement need not to be dilated upon. Moreover, it is not the case setup that the employee who resigned from job is eligible for pensionary benefits under 1995 Scheme.

10. It cannot be lost sight of that albeit, as per Para 30 of the 1995 Scheme, voluntarily retired employee on fulfillment of the conditions of the 1995 Scheme is entitled to pensionary benefits but the eligibility for taking voluntary retirement is governed by separate set of regulations and not by Para 30 of the 1995 scheme.

11. The judgments of ***SheelKumar Jain v. New India Assurnace Company Limited (Supra) and Shashikala Devi v. Central Bank of India (Supra)*** relied upon by counsel for the petitioner dealing with the proposition as to whether the acceptance of resignation would deny the pensionary benefit accruing to employee on taking voluntary retirement shall not enhance the case of the petitioner. Those cases dealt with the acceptance of resignation but not where the resignation was accepted and the employee was not eligible to take voluntary retirement. In the case in hand the petitioner was held to be ineligible for taking voluntary retirement.

12. No case is made out for interference in the writ jurisdiction.

13. The petition is dismissed.

AVNEESH JHINGAN, J

NOVEMBER 14, 2025
'JK'

Reportable : Yes