

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WA.No. 1903 of 2010 IN WP(C).27929/2003

AGAINST THE JUDGMENT IN WP(C) 27929/2003 DATED 14-09-2010

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APPELLANTS/RESPONDENTS 1 & 2 :

1. STATE BANK OF INDIA, REPRESENTED BY ITS
CHAIRMAN, CORPORATE CENTRE, STATE BANK BHAVAN
MADAME CAMA ROAD, NARIMAN POINT, MUMBAI-400 021.
2. THE EXECUTIVE TRUSTEE, STATE BANK OF
INDIA EMPLOYEES PENSION FUND, STATE BANK BHAVAN
MADAME CAMA ROAD, NARIMAN POINT, MUMBAI-400 021.

BY ADVS.SRI.GEORGE THOMAS (MEVADA)(SR.)
SRIN.RAYNOLD FERNANDEZ
SRI.SUSHEEL JOSEPH CYRIAC
SRI.MANU GEORGE KURUVILLA

RESPONDENTS/PETITIONERS 1-20/RESPONDENTS 3 & 4 :

1. T.R.VIJAYAN, 50/1701, THAREPARAMBIL,
VIDYANAGAR, KADAVANTHARA, KOCHI-682020.
2. GEORGE MATHEW, MULLAMKUZHIYIL HOUSE,
VAZHAKKULAM-686670.
3. AMBIKA GOPALAKRISHNAN, "ARATHI",
PONOTH ROAD, KALOOR, KOCHI-682017.
4. ALICE SEBASTIAN, KONTHURUTHY HOUSE,
KONTHURUTHY ROAD, DESABHIMANY ROAD, KALOOR
KOCHI-682017.
5. A.K.SOMAN, VAZHAKOTTU PARAMBU,
NETHAJI ROAD, EDAPALLY P.O., KOCHI-682024.
6. V.N.KESAVAN NAIR, 'DHANYA',
IRUMBOOZHICKARA, UDAYANAPURAM P.O., VAIKOM.

7. R.MADUSUDANAN NAIR, FLAT NO.2/E,
PANTHEON APARTMENTS, BYE PASS JUNCTION, EDAPPALLY
KOCHI-682024.
8. V.G.JOSEPH, VALLIARUMPETH, V.T.NADA P.O., VAIKOM-686142.
9. O.K.VIJAYAN, 'GITANJALI',
KUNNUMPURAM, WEST DESOM, ALUVA-683103.
10. XAVIER M.R., MANTHRA HOUSE,
AZAD ROAD, VYLOPPILLY LANE, KALOOR
KOCHI-682017.
11. P.M.GOPALAKRISHNA PANICKER, 48/1760,
LAXMI NIVAS, PERUMBOTTA ROAD, ELAMAKKARA
KOCHI-682026.
12. K.C.SOMANATHAN, "KRISHNARPANAM",
EXCELL PARK, STP ROAD, ELAMKULAM
KADAVANTHRA P.O., KOCHI-682020.
13. V.N.SHANMUKHAN, 35/585A,
"VALLOOR NIVAS", FACT ROAD, PONNURUNNI
VYTTILA P.O., KOCHI-682019.
14. K.A.JOSEPH, 'ZION', 35/527,
KEERTHI NAGAR ROAD, ELAMAKKARA-682026.
15. T.V.PRABHAKARAN, 8/1596, HARISREE,
VAMANAN MASTER LANE, A.K.ROAD, MATTANCHERRY
KOCHI-682002.
- * 16. K.V.KURIAN(*DECEASED), KANJIRATHINKAL HOUSE,
KANDANAD P.O., THIRUVANKULAM VIA
ERNAKULAM DISTRICT-682305.
17. K.PEETHAMBARAN, 35/2181, 'SINDHU COTTAGE
SUDARSHAN JN., PALARIVATTOM, KOCHI-682025.
18. P.SIVADASAN, 37/619, KOIPURAM,
MUTTATHIL LANE, KADAVANTHRA P.O., KOCHI-682020.
19. A.K.SIVAPRAKASAN NAIR, "ANUGRAH",
NEAR GOVERNMENT GIRLS HIGH SCHOOL, POLAKKULAM, ROAD
THRIPUNITHURA P.O., PIN-682301.
20. JOHN T.J., MANIKATH HOUSE, POWER HOUSE
ROAD, PALARIVATTOM, KOCHI-682025.
21. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF
ECONOMIC AFFAIRS, NORTH BLOCK, NEW DELHI-110 001.

22. THE RESERVE BANK OF INDIA,
REPRESENTED BY ITS GOVERNOR, CENTRAL OFFICE
SAHID BHAGAD SINGH MARG, FORT, MUMBAI.

Addl. 23. OMANA KURIAN
KANJIRATHINKAL HOUSE, KANDANAD.P.O., THIRUVANKULAM
ERNAKULAM DISTRICT.

Addl. 24. VINOD KURIAN
KANJIRATHINKAL HOUSE, KANDANAD.P.O., THIRUVANKULAM
ERNAKULAM DISTRICT.

Addl. 25. VINEETHA KURIAN
KANJIRATHINKAL HOUSE, KANDANAD.P.O., THIRUVANKULAM
ERNAKULAM DISTRICT.
(ADDL. R23 TO R25 ARE IMPEADED AS THE LEGAL HEIRS OF THE
DECEASED R16 AS PER ORDER DATED 25/07/2014 IN IA 674/2014).

R1 TO R15, R17 TO R20 AND ADDL R23,R24 & R25
BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
ADV. SRI.S.SUJIN
R21 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 21-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 1903 OF 2010

Dated this the 21st day of November, 2015

JUDGMENT

Shaffique, J.

Respondents 1 and 2 in W.P.(C) No.27929 of 2003 are the appellants who challenges the judgment dated 14.09.2010 by which certain directions had been issued by the learned Single Judge.

2. The writ petition was filed by the respondents herein seeking for various directions in relation to the pension which they are entitled to get from the appellant Bank. All of them were retired employees of State Bank of India. It is alleged that they were discriminated and a different criterion was adopted by the Bank in the matter of payment of pension based on the date of retirement.

3. However, during the pendency of the writ petition, petitioners relied upon Ext.P4 order issued by the Bank which is applicable to certain retired employees who have retired on or after 01.11.2002 and have been given enhanced pension benefits. The petitioners restricted their reliefs by

claiming the same benefit given as per Ext.P4. Learned Single Judge after considering the limited claim made by the petitioners observed that if the Bank decides to implement Ext.P4, that shall be uniformly implemented without reference to any cut off date on the basis of retirement. In other words, the benefit of Ext.P4 should be extended to all retired employees including the persons like petitioners. After observing so, the learned Single Judge further observed that the Bank shall take a decision on the basis of the said directions as expeditiously as possible.

4. The appellant Bank challenges the observations made by learned Single Judge that if Ext.P4 is implemented, it has to be implemented uniformly without taking note of the cut off date mentioned in the said order.

5. Learned Senior counsel appearing for the Bank submits that the aforesaid direction of learned Single Judge is absolutely baseless as Ext.P4 itself will not confer any right on any employee. It is argued that Rule No.23 of the State Bank of India Employees Pension Fund Rules was amended by the Bank after getting approval of the Reserve Bank of India and the

benefit of pension cannot be extended to all retired employees of the Bank. It is also submitted by learned counsel for the Bank that just before the judgment, the rule has been amended in the year 2009 and thereafter in the year 2014 also, and the Bank has paid the pension and other benefits on the basis of said amendments. The opening sentence of Ext.P4 reads as under:

"The Executive Committee of the Central Board pending amendments in State Bank of India Employees Pension Fund Rules, has approved release of basic pension and dearness relief thereon on an ad-hoc basis to those who retired on or after 01.11.2002. The revision in pension will be subject to amendment in Rule 23 of SBI Employees Pension Fund Rules."

6. It is clearly indicated that suggestions made were in accordance with the amendments in the State Bank of India Employees Pension Fund Rules. Therefore the very applicability of Ext.P4 was based on such amendment. Under such circumstances the learned Single Judge ought not have observed that the Ext.P4 should be extended to the employees who had retired prior to 01.11.2002. It is always open for the Bank to frame such schemes on the basis of the rules and pension is being paid to their employees in accordance with the statutory

scheme. It is always open for the retired employees including the petitioners as the case may be to challenge the rules, if it is in any way discriminatory. We therefore do not want to express any concluded opinion on the merits or demerits of the contentions urged by the petitioners.

In the said circumstances this Writ Appeal is disposed of as under:

The directions in the judgment of learned Single Judge to the extent it directs that Ext.P4 has to be implemented uniformly is set aside. It is made clear that this is without prejudice to the right of the writ petitioners to challenge any rule, if it is in any way discriminatory to them.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**