

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WA.NO. 1824 OF 2014 () IN OP.30036/2002

AGAINST THE ORDER/JUDGMENT IN OP 30036/2002 OF HIGH COURT OF
KERALA DATED 25-02-2014

APPELLANT(S) /APPELLANT/PETITIONERS:

1. K. BHASKARAN NAIR
DEPUTY MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.TRWA 124, NEAR INDIRA GANDHI STATUE, THALIYAL
KARAMANA P O, THIRUVANANTHAPURAM-695002
PRESENTLY RESIDING AT TC 3/466(C)MUTTADA P O
THIRUVANANTHAPURAM -695025
2. M K DAMODARAN NAIR
CHIEF MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.FLAT NO G2, P.R.S.ENCLAVE, EASWARAVALLESWAROM ROAD
NEAR CENTRAL H S JAGATHY, THYCAUD P O
THIRUVANANTHAPURAM-695014
PRESENTLY R/A.HOUSE NO VP XIII/690
SREENILAYAM M C ROAD, VATTAPARA P O
THIRUVANANTHAPURAM-695028
3. S SOORYANARAYANAN
DEPUTY MANAGER NRI (RTD) STATE BANK OF TRAVANCORE
R/A.T C 37/566/ (1) (OLD TC 37/567) CHOTTUPURA STREET
FORT, THIRUVANANTHAPURAM-695023
4. V RADHAKRISHNAN PILLAI
BRANCH MANAGER (RTD) STATE BANK OF TRAVANCORE
THIRUMALA , THIRUVANANTHAPURAM-695006
5. V.SASIDHARAN,
BRANCH MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A.T C 21/564 (1) KGRA 12, "THIRUVATHIRA"
KEEZHARANNOOR, KARAMANA P O, THIRUVANANTHAPURAM-695002

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6. JOSEPH ANTONY DEPUTY MANAGER(OAD) (RTD)
STATE BANK OF TRAVANCORE, R/A.HOUSE NO 84, MAY FAIR
NANTHANCODE, THIRUVANANTHAPURAM-695003

7. D SASIDHARAN NAIR
MANAGER(PCSB) (RTD) STATE BANK OF TRAVANCORE
R/A.HOUSE NO S 25, 'SOUPARNIKA', SOUTH SANTRHI NAGAR
KARAMANA, THIRUVANANTHAPURAM-695002

8. V CHANDRANKUTTY
DEPUTY MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.'RADHIKA'TC 15/678, PALOTTUKONAM
SASTHAMANGALAM P O, THIRUVANANTHAPURAM-695010

9. K SASIKUMAR
DEPUTY MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.'DWARAKA', K P II/373-A, GANDHI NAGAR
KAZHAKKUTTAM P O, THIRUVANANTHAPURAM DIST-695582

10. R VASANTHI DEVI
DEPUTY MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.TC 36/1604, 'AISWARYAM'VALLAKKADAVU P O
THIRUVANANTHAPURAM, PRESENTLY R/A.CHANDRA APARTMENT
14/1/L M PYLEE ROAD, VYTTILA P O, ERNAKULAM-682019

11. K J SUJATHA
DEPUTY MANAGER, (RTD) STATE BANK OF TRAVANCORE
R/A.'SUJI NIVAS'PUNKULAM, VELLAYANI
THIRUVANANTHAPURAM-695522

12. V RAVIKUMAR
DEPUTY MANAGER(ADV) (RTD) STATE BANK OF TRAVANCORE
R/A.'SREESYLAM', MAMAM, KEEZHUVILAM P O
ATTINGAL-695104

13. M RADHA
ASSISTANT MANAGER(ACCOUNTS) (RTD) STATE BANK OF TRAVANCORE
R/A.'USHUS', KOKKOTTELA P O, ARYANAD
THIRUVANANTHAPURAM-695542

14. K THULASEEDHARAN NAIR
HEAD CASHIER(RTD) STATE BANK OF TRAVANCORE
R/A.T C 24/1245(1)VALIASALA, CHALAI P O
THIRUVANANTHAPURAM-695036

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15. V SURENDRAN NAIR
DEPUTY MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.C S M HOUSE, NO 6 EDAPPAZHANJI, TC 15/732
SASTHAMANGALAM P O, THIRUVANANTHAPURAM-695010

16. M R RAJASEKAHARAN NAIR
CHIEF MANAGER(SM IV GRADE) (RTD) STATE BANK OF TRAVANCORE
R/A.'SREESAILAM' TC 19/927, TRA-1, THRIVIKRAMANGALAM
THAMALAM, POOJAPPURA P O, THIRUVANANTHAPURAM-695012

17. V KOCHUKRISHNAN NAIR
CHIEF MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.TC 41/249(7) 'USHUS', MANACAUD P O
THIRUVANANTHAPURAM-695009

18. S MOIDEEN KUNJU, MANAGER (RTD)
STATE BANK OF TRAVANCORE
R/A.'MANJUSHA' TC 17/576(1) PRA-12
PATHIRAPPALLY LANE, POOJAPPURA P O
THIRUVANANTHAPURAM-695012

19. S VIJAYAKUMARAN NAIR, ASSISTANT MANAGER(RTD)
STATE BANK OF TRAVANCORE, R/A.ASWINI, TC 16/768(1)
KOCHAR ROAD, THIRUVANANTHAPURAM-695014

20. K SANKARA NARAYANAN
DEPUTY MANAGER(RTD) STATE OF TRAVANCORE
R/A.SARASWATHY NIVAS', HOUSE NO 8 T C 55/649
VINAYAKA NAGAR, PAPPANAMCODE P O
THIRUVANANTHAPURAM-695018

21. P MOHANAN
RECORD KEEPER (RTD) STATE BANK OF TRAVANCORE
R/A.'SREE VAISAKAM' K V NAGAR, PEYAD P O
THIRUVANANTHAPURAM-695573

22. B VIJAYALEKSHMI
DEPUTY MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.'VARDHINI' TC 29/889, PALKULANGARA
THIRUVANANTHAPURAM-695024

23. ABRAHAM VARGHESE, BRANCH MANAGER (RTD)
STATE BANK OF TRAVANCORE, RESIDING AT
TC 13/561 (OLD TC 15/1679), KV 19
KUNNUKUZHY, THIRUVANANTHAPURAM - 695 035.

BY ADVS.SMT.SUMATHY DANDAPANI (SR.)
SRI.MILLU DANDAPANI

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RESPONDENT(S)/RESPONDENTS 1 TO 5 AND PETITIONERS:

1. STAE BANK OF TRAVANCORE
HEAD OFFICE, THIRUVANANTHAPURAM-695001
REP BY ITS MANAGING DIRECTOR

2. THE CHAIRMAN
STATE BANK OF TRAVANCORE, HEAD OFFICE
THIRUVANANTHAPURAM-695001

3. THE CHIEF MANAGER(PENSION, PROVIDENT & GRATUITY
SECTION) STATE BANK OF TRAVANCORE, HEAD OFFICE
THIRUVANTHAPURAM-695001

4. UNION OF INDIA
REP BY THE SECRETARY TO GOVERNMENT
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
DEPARTMENT OF PENSION AND PENSIONERS WELFARE
GOVERNMENT SECRETARIAT, NEW DELHI-110001

5. INDIAN BANKS ASSOCIATION,
STADIUM HOUSE 6TH FLOOR, BLOCK 3, VEER NARIMAN ROAD
MUMBAI 400020, REP BY ITS SECRETARY

6. K V SREEKANTHAN NAIR,
BRANCH MANAGER(RTD) STATE BANK OF TRAVANCORE
R/A.'SREYAS'T C 38/1800, NO 77, KAILAS NAGAR POOJAPURA
THIRUVANANTHAPURAM-695012

7. M SREENIVASA IYER,
DEPUTY MANAGER(GRADE II OFFICER) (RTD)
STATE BANK OF TRAVANCORE
R/A.TC 29/1565'PARVATHY'KAIRALI LANE (CRAZO) PERUMTHANNI
THIRUVANANTHAPURAM-695008

8. P KRISHNAMOORTHY,
ASSISTANT MANAGER (RTD) STATE BANK OF TRAVANCORE
RA.206/AKG NAGAR, PEROORKADA
THIRUVANANTHAPURAM-695005

9. N THULASEEDHRAN,
RECORD KEEPER(RTD) STATE BANK OF TRAVANCORE
R/A.SREE NARAYANA VILASOM, PAZHANGALAM, NALLILA P O
THIRUVANANTHAPURAM-695005

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10. P RAVINDRAN NAIR,
DEPUTY MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A.PANAKATHARA TC 20/322, MELARANNOOR, KARAMANA
THIRUVANANTHAPURAM-695002

11. P KARUNAKARAN PILLI, DEPUTY MANAGER
(RTD) STATE BANK OF TRAVANCORE, R/A.TC 5/2525
'FOCUS' GOLFLINKS ROAD, T K V NAGAR
THIRUVANANTHAPURAM-695041

12. DANIEL JOHN
DEPUTY MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A.JOVILLA', K P 10/460 , N C C ROAD
PEROORKADA, THIRUVANANTHAPURAM-695005

13. S SUBRAMONIA IYER,
ACCOUNTANT (RTD) STATE BANK OF TRAVANCORE
R/A.TC 777(1) BIG PALLA STREET, FORT
THIRUVANANTHAPURAM-695023

14. K RAJAGOPALAN NAIR
DEPUTY MANAGER (ACCUNTS) (RTD) STATE BANK OF TRAVANCORE
R/A.TC/24/257, BEHIND THYCAUD HOUSE, THYCAUD P O
THIRUVANANTHAPURAM-695014

15. K P KRISHNANKUTTY NAIR
ASSISTANT MANAGER (ADV) (RTD) STATE BANK OF TRAVANCORE
R/A.'KEERTHY' PALODE, PACHA P O
THIRUVANANTHAPURAM-695562

16. C RAJALAKSHMI AMMAL
DEPUTY MANAGER (ADV) (RTD), STATE BANK OF TRAVANCORE
R/A.TC 21/187, SERA 127, MANNEDI BHAGAVATHI NAGAR
KARAMANA, THIRUVAANTHAPURAM-695002

17. K V PRATHAPACHANDRAN NAIR,
BRANCH MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A TC 29/1098 , DEVI NAGAR, PALKULANGARA
THIRUVANANTHAPURAM-695024

18. M K MATHEW
DEPUTY MANAGER (ACCOUNTS) (RTD) STATE BANK OF TRAVANCORE
R/A.T C 17/1255 (2) MAMPALLIL HOUSE
NEAR PANGODE BRIDGE, THIRUMALA P O
THIRUVANANTHAPURAM-695008

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19. N CHANDRASEKHARAN PILLAI
BRANCH MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A. 'SUNITHA SADANAM' VELLIYARA P O
AYIROOR (N) PATHANAMTHITTA DIST-689612

20. K PARAMESWARAN ACHARY
OFFICER (RTD) STATE BANK OF TRAVANCORE
R/A. 'CHITHRADEEPAM' PAZHAMKULAM WEST
PAZHAMKULAM P O, ADOOR-691527

21. BALAKRISHNA PILLAI K
DEPUTY MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A. TC 9/2636, A7 ELAMKOM GARDENS, VELLAYAMBALAM
THIRUVANANTHAPURAM-695010

22. A. MICHEAL GEORGE,
ASSISTANT MANAGER (RTD), STATE BANK OF TRAVANCORE
R/A. 'THAYAHAM' TAYAVOOR K THOPPUR P O
KANNYAKUMARI DISTRICT, TAMIL NADU-629702

23. R PADMANABHAN
ASSISTANT MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A. TC 28/2139 'RAJA NIVAS', VAZHUTHACAUD
THIRUVANANTHAPURAM-695033

24. N MOHANAN
CHIEF MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A. SOUPARNIKA, EDAVAKODE, SREEKARYAM P O
THIRUVANANTHAPURAM-695017

25. G. UMAMAHESAN, ASSISTANT MANAGER (RTD)
STATE BANK OF TRAVANCORE, R/A. PALATHINKAL HOUSE
TC41/366, CTC 24/216 (OLD) SASTHA LANE THYACUED
THYCAUD P O, THIRUVANANTHAPURAM-695014

26. C SASIDHARAN NAIR
DEPUTY MANAGER (RTD) STATE BANK OF TAVANCORE
R/A. 'SOUNDRYA' PULIYOORKURICHY, THUCKALAY 629125
KANNYAKUMARI DISTRICT, TAMIL NADU

27. M SUBASH
MANAGER (CONCURRENT AUDIT) (RTD)
STATE BANK OF TRAVANCORE, R/A. TC 17/1472, 'NISHAD'
PATTOM PALACE P O, THIRUVANANTHAPURAM-695004

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28. C SATHYAPALAN
DEPUTY MANAGER (ACCOUNTS) (RTD)
STATE BANK OF TRAVANCORE, R/A.KP 10/113, 'PULARI'
MADATHIL LANE N C C ROAD, PEROORKADA
THIRUVANANTHAPURAM-695005

29. V SATHYAVAN PILLAI
MANAGER (ACCOUNTS) (RTD) STATE BANK OF TRAVANCORE
R/A.LAKSHMI MANGALAM, BHARATHANNUR PO
THIRUVANANTHAPURAM-695616

30. GOPALAKRISHNAN NAIR
ACCP (RTD), STATE BANK OF TRAVANCORE, R/A.VIJI BHAVAN
AMBNADI NAGAR, SREEKARYAM PO
THIRUVANANTHAPURAM-695017

31. S SARASWATHY
MANAGER (GENERAL) (RTD) STATE BANK OF TRAVANCORE
R/A.TC 21/2031, 'VINDAVAN' SREERAM NAGAR, KARAMANA
THIRUVANANTHAPURAM-695025

32. N GOPALAKRISHNAN NAIR
CHIEF MANAGER (INSPECTION MOBILE) (RTD) STATE BANK
OF TRAVANCORE
R/A.'RAMANIKA HOUSE', VALIYAVILA, THIRUMALA P O
THIRUVANANTHAPURAM-695006

33. K MOHANA CHANDRAN
HEAD CLERK (RTD) STATE BANK OF TRAVANCORE
R/A.T C 56/699, NEDUNKAD, KARAMANA P O
THIRUVANANTHAPURAM-695025

34. N KESAR SINGH, MANAGER (RTD)
STATE BANK OF TRAVANCORE, R/A.TC 41/2259
KALIPPANKULAM ROAD, MANACAUD P O
THIRUVANANTHAPURAM-695009

35. C P VELAYUDHAN NAIR
DEPUTY MANAGER (RTD) STATE BANK OF TRAVANCORE
R/A.50/1456(B) NORTH 'JOVILLA', K P 10/460, N C C ROAD
PERROKADA, THIRUVANANTHAPURAM-695036

36. T R CHANDRASEKHARAN NAIR
OFFICE ADMINISTRATION (RTD) STATE BANK OF TRAVANCORE
R/A B2, RBI OFFICERS QUARTERS, CUNNIGHAM ROAD
BANGAGOURE 560651

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37. MALAICHAMY

RECORD KEEPER (RTD) STATE BANK OF TRAVANCORE
R/A.VENKITESWARA ILLAM, 109, JAYARAM NAGAR
AMBATHURAI, GANDHIGRAM, DINGIGUL DISTRICT-624001

38. P V MATHEW

DEPUTY MANAGER (RTD) STATE BANK OF TRAVANCORE
HB HIG 114, PANAMPILLY NAGAR, KOCHI-682036

R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R BY SRI.P.RAMAKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
09.02.2015, THE COURT ON 20-02-2015 DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, Ag. C.J.

And

A.M. SHAFFIQUE, J.

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W.A. No.1824 of 2014

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Dated this the 20th day of February, 2015

J U D G M E N T

Ashok Bhushan, Ag. C.J.

This Writ Appeal has been filed by the Officers of the State Bank of Travancore (for short, “the Bank”) who after accepting the voluntary retirement scheme under the State Bank of Travancore Voluntary Retirement Scheme, 2001 (for short, “the 2001 Scheme”) raised a claim for addition of a period of five years in their length of service for the retiral benefits relying on Regulation 29(5) of the State Bank of Travancore (Employees' Pension) Regulations, 1995 (hereinafter referred to as 'Regulation, 1995').

2. Writ Petition filed by the appellants seeking the above benefit was dismissed by the learned Single Judge

by his judgment/order dated 25.02.2014 in O.P. No.30036 of 2002 against which this Writ Appeal has been filed.

3. Brief facts of the case are: The appellants were working as Officers holding different posts in the Bank at the time when the Bank floated the 2001 Scheme. The Scheme was opened to all permanent employees of the Bank who have put in 15 years of service or completed 40 years of age as on 31.01.2001. The 2001 Scheme enumerated various benefits including exgratia payment and other benefits as detailed in the 2001 Scheme. The proforma application form was also part of the 2001 Scheme under which employees were required to submit their application seeking voluntary retirement. All the appellants applied for voluntary retirement under the 2001 Scheme which was accepted by the Bank. Consequently, they were relieved with effect from 31.03.2001. A notice was given by the

appellants on 25.02.2002 claiming adding of 5 years to the pensionary service relying on Regulation 29(5) of the Regulations. The Bank vide its letter dated 28.02.2002 communicated that the appellants having been retired under the 2001 Scheme, they are not eligible to the benefit under Regulation 29(5). Original Petition No.30062 of 2002 was filed by the appellants along with 33 other Writ Petitioners. The appellants in the Writ Petition prayed for the following reliefs:

(i) *call for the records leading to the issuance of Exts.P3, P4 and similar reliefs given by the respondents and issue a writ of certiorari quashing the same.*

(ii) *issue a writ of mandamus or other appropriate writ, order of direction declaring that Clause 7.III of Ext.P1 is ultra vires the State Bank of Travancore (Employees") Pension Regulations, 1995 in so far as it states that "the benefit of increased qualifying service as provided under Regulation 29(5) of State Bank of Travancore Pension Regulations of 1995 will not be applicable to those who seek voluntary retirement under this Scheme."*

(iii) *issue a writ of mandamus or other appropriate writ, order or direction commanding the*

respondents to extend the benefit of Regulation 29(5) of the State Bank of Travancore (Employees') Pension Regulations of 1995 and thereby permit the petitioners except petitioners 3, 20, 26, 27, 32, 38, 43, 45 and 48 to increase the qualifying service by a period not exceeding five years subject to the condition that the total qualifying service rendered does not in any case exceed thirty three years and it does not take the petitioners beyond the date of superannuation and direct the respondents to disburse the same with retrospective effect from the date of voluntary retirement.

(iv) issue a writ of mandamus or other appropriate writ, order or direction declaring that the petitioners are entitled to be paid pension and other pensionary benefits including commuted value of pension by calculating average emoluments, taking the salary received by the petitioners during the ten preceding months from the date on which the petitioner were prematurely retired by the Bank and direct the respondents to disburse the same with retrospective effect from the date of voluntary retirement."

4. A counter affidavit was filed by the Bank refuting the claim of the petitioners. It was pleaded that the petitioners having voluntarily accepted retirement under the 2001 Scheme in which it was categorically mentioned that persons opting for the voluntary

retirement scheme shall not be entitled to have the benefit of Regulation 29(5) and they having given in writing that they shall not claim any benefit, they have no right to challenge the action of the Bank or claim any relief.

5. Learned Single Judge after hearing the Writ Petition held that benefit under Regulation 29(5) shall not be applicable to the employees as was already specifically mentioned in clause 7(III) of the 2001 Scheme and the petitioners having opted to make an offer of voluntary retirement which was accepted by the employer, they have no right to challenge since acceptance of the offer give rise to a concluded contract. The Writ Petition was dismissed.

6. All the Writ Petitioners have not filed appeal since other petitioners did not claim or require the benefit under Regulation 29(5) they having completed the maximum period of service. Out of 56 petitioners,

only 22 petitioners have come up in this appeal challenging the judgment of the learned Single Judge.

7. We have heard Smt. Sumathi Dendapani, learned Senior Advocate appearing for the appellants and Advocate Shri P.Ramakrishnan appearing for the Bank. Shri N.Nagaresh had accepted notice on behalf of the Union of India.

8. Learned counsel for the appellants submitted that Regulation 29(5) being a statutory provision and under the 2001 Scheme pension was payable as per the Regulations, the benefit of Regulation 29(5) could not have been denied to the appellants. It is submitted that the 2001 Scheme which is non-statutory cannot have an effect of overriding statutory provision of Regulation 29 (5). It is submitted that Regulation 29(5) was fully applicable for giving benefit of addition of 5 years service to the appellants which has wrongly been denied by the Bank. It is submitted that the learned Single

Judge committed an error in dismissing the Writ Petition. It is submitted that the issue raised by the appellants is fully covered by the judgment of the Apex Court in **Bank of India v. K. Mohandas** ([2009] 5 SCC 313).

9. Learned counsel for the Bank refuting the submissions of the learned counsel for the appellants contended that the 2001 Scheme specifically contained clause 7(III) specifically providing that the benefit under Regulation 29(5) shall not be admissible to those who opted for voluntary retirement under the 2001 Scheme. It is further submitted that the 2001 Scheme as well as the application submitted by the appellants contained a clause that appellants accept all terms and conditions of the 2001 Scheme and shall not raise any claim of any other payment. The appellants having consented that they shall not claim the benefit under Regulation 29(5) they are estopped from claiming the benefit under Regulation 29(5) after accepting the terms and

conditions of the 2001 Scheme. It is submitted that the decision of the Apex Court in **Bank of India v. K. Mohandas** (supra) is distinguishable since in the 2000 Scheme which was under consideration before the Apex Court there was no specific clause excluding the applicability of Regulation 29(5). In support of the submissions, learned counsel for the Bank placed reliance on the judgment of the Apex Court in **Bank of Baroda v. Ganpat Singh Deora** ([2009] 3 SCC 217). It is further submitted that the appellants having accepted the invitation of offer by submitting application are debarred from claiming any other additional benefits apart from what was stipulated in the 2001 Scheme. Learned counsel also placed reliance on the judgment of the Apex Court in **A.K. Bindal v. Union of India** ([2003] 5 SCC 163).

10. We have considered the rival submissions and perused the records.

11. The only issue which arises for consideration in this Writ Appeal is as to whether the appellants who submitted applications under the 2001 Scheme and opted for voluntary retirement as per the terms and conditions mentioned in the 2001 Scheme are entitled to the benefit under Regulation 29(5) which provides for addition of five years of service or not?

12. Regulations 1995 are statutory Regulations framed under sub-section (2) of Section 63 of the State Bank of India (Subsidiary Banks) Act, 1959, by the State Bank of India in consultation with the Board of Directors of the State Bank of Travancore with approval of the Reserve Bank of India. Regulation 2(i) deals with retirement, Regulation 14 deals with qualifying service, Regulation 28 deals with superannuation pension, Regulation 29 deals with pension on voluntary retirement, Regulation 32 deals with premature retirement pension and Regulation 33 deals with

compulsory retirement pension.

13. Regulations 2(i), 14, 28 and 29 which are relevant for the present case are as follows:

"2(i) deemed to have retired means cessation from service of the Bank on appointment otherwise on deputation by Central Govt. as a whole time Director or Managing Director or Chairman in any Bank specified in Column 2 of the FIRST SCHEDULE of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970)/Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) or in any public financial institution or State Bank of India established under State Bank of India, Act, 1955 (23 of 1955) or in Subsidiary Banks as defined in State Bank of India (Subsidiary Banks) Act, 1959."

14. **Qualifying Service.**- *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 on the date on which he is deemed to have retired shall qualify for pension."*

28. **Superannuation Pension.**-

Superannuation pension shall be granted to an employee who has retired on his attaining the age of superannuation specified in the Service Regulation or settlements.

29. **Pension on Voluntary Retirement.**-

(1) On or after the 1st day of November, 1993 at any time after an employee has completed twenty years of qualifying service he may, by giving notice of not less than three months in writing to the competent authority retire from service;

Provided that this sub-regulation shall not apply to an employee who is on deputation or on study leave abroad unless after having been transferred or having returned to India he has resumed charge of the post in India and has served for a period of not less than one year:

Provided further that this sub-regulation shall not apply to an employee who seeks retirement from service for being absorbed permanently in an autonomous body or a public sector undertaking or company or institution or body, whether incorporated or not to which he is on deputation at the time of seeking voluntary retirement:

Provided that this sub-regulation shall not apply to an employee who is deemed to have retired in accordance with clause (1) of regulation 2.

(2) The notice of voluntary retirement given under sub-regulation (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(3) (a) An employee referred to in sub-regulation (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than three months giving reasons therefor;

(b) On receipt of a request under clause (a), the appointing authority may, subject to the provisions of

sub-regulation (2), consider such request for the curtailment of the period notice of three months and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, appointing authority may relax the requirement of notice of three months on the condition that the employee shall not apply for communication of a part of his pension before the expiry of the notice of three months.

(5) The qualifying service of an employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed 33 years and it does not take him beyond the date of superannuation."

14. As noted above the Bank issued the 2001 Scheme inviting application from its employees who have completed 15 years of service or 40 years of age, to apply for voluntary retirement.

15. The salient features of the 2001 Scheme need to be noted. Clause (3) of the Scheme dealt with eligibility, clause (6) provided for the amount of exgratia which was to be paid to the staff member who opted for voluntary retirement. Exgratia payment of 60

days' salary for each completed year as on 31.03.2001 was contemplated. Clause 7 contemplated for other benefits including gratuity, provident fund, encashment of balance privilege leave and other benefits. Clause 7 is quoted below:

7. **OTHER BENEFITS:**

I. *Gratuity as payable under the extant instructions on the relevant date.*

II. *Provident Fund contribution as per State Bank of Travancore Employees' Provident Fund Rules as on relevant date.*

III. *Pension in terms of State Bank of Travancore Employees' Pension Fund Rules on the relevant date (including commuted value of pension). However, the benefit of increased qualifying service as provided under Regulation 29 (5) of SBT Pension Regulations 1995 will not be applicable to those who seek voluntary retirement under this scheme.*

IV. *Encashment of balance of Privilege Leave, as applicable, on the relevant date.*

V. *Respective facilities extended to officers/others such as retention of accommodation, telephone, car, continuation of housing loan etc., will be extended to officers/others retiring under SBTVRS, as per existing instructions, at the discretion of the Competent Authority. However, in such cases of retention of*

physical facilities, 50% of the amount of ex-gratia payable will be released only after the employee surrenders the facility. No interest, however, will be paid for the amount so withheld.

VI. All other outstanding loans/advances will have to be repaid before the date of retirement under SBTVRS, failing which the amount of ex-gratia and other terminal benefits payable to the employee will be appropriated towards the outstanding loans/advances and the balance amount only will be payable to the employee."

16. Clause 9 provided for general conditions. One of the general conditions was, "the employees seeking retirement under the SBTVRS will not be entitled to dispute the payments received under the Scheme on any ground whatsoever. The retiring staff member and/or their nominees or legal heirs shall have no right/claim/demand against the Bank on any matter relating to the scheme". Along with the 2001 Scheme, Annexure-III an enclosure which was "application for voluntary retirement under SBTVRS" was enclosed. While submitting application, the applicant has to give

various declarations which are mentioned therein. One of the declarations that is declaration No.7 which is relevant for the case is to the following effect:

"7. The benefit of increased service as provided for under regulation 29(5) of SBT Pension Regulations 1995 will not be available to employees who opt for retirement under SBTVRS scheme. I hereby convey my consent for the same."

17. There is no dispute between the parties that all the appellants submitted their applications in the prescribed proforma by giving the requisite declaration and their application for voluntary retirement was accepted under the Scheme 2001 and they retired from the Bank's service on 31.03.2001. There is also no dispute between the parties regarding payments as per the 2001 Scheme to the appellants. The appellants in the year 2002 raised a claim and submitted a notice to the Bank claiming that their benefit should be computed by adding 5 years service as per Regulation 29(5). The claim of the appellants raised regarding

benefit under Regulation 29(5) was not accepted by the Bank and the Bank replied the notice by letter dated 28.02.2002. It is useful to quote the reply given by the Bank which is filed by the appellants as Ext.P3 which is quoted as follows:

**"YOUR NOTICE DATED 25.2.2002 - CLAIM FOR
ADDING 5 YEARS TO THE PENSIONABLE SERVICE**

We refer to your subject notice addressed to our Managing Director, interalia, claiming benefit under Regulation 29(5) of SBT (Employees") Pension Regulations, 1995. Since you have opted for voluntary retirement under SBTVRS and availed benefits including income tax benefit, you cannot disclaim the same bfy advancing untenable contentions. SBTVRS was a special scheme outside the scope of Pension Regulations. The scheme itself provided that the benefit of additional period provided under the Pension Regulations for voluntarily retired employees are not available. By virtue of the terms of VR Scheme some of the benefit of the Pension Regulations were made available to those VRS optees. As such, the VR Scheme as alleged in your notice has effected no modification to the provisions of the Pension Regulations and the averments to the contrary are incorrect.

2. Moreover, you had in you application submitted under the SBT VRS 2001 Scheme, specifically

consented for the waiver of the benefit of increased service as provided for under Regulation 29(5) of SBT Pension Regulations (vide item 7 under declarations). Hence you are estopped from advancing any such contentions on account of the option exercised by you with full knowledge of all the provisions of the VR Scheme as well as the Pension Regulations.

3. In the above circumstances, since you have retired under the SBT VR Scheme, you are not eligible for the benefit or Regulation 29(5) of SBT Pension Regulations 1995. In case you resort to any legal proceedings ignoring the above position, you will be liable for all costs and consequences arising therefrom.

*Yours faithfully,
sd/-
Chief Manager (PPG)"*

18. From the facts as noted above it is evidently clear that the 2001 Scheme contained a specific clause, Clause 7(III) that although the applicants shall be entitled to the pension in terms of the State Bank of Travancore Employees Pension Fund Rules, however, the benefit of increased qualifying service as provided under Regulation 29(5) of the Regulations will not be applicable to those claiming voluntary retirement

under the 2001 Scheme. The 2001 Scheme which was an invitation to offer to the employees and Officers was with a specific clause that benefit under Regulation 29 (5) shall not be admissible. As noted above, appellants also gave declaration giving their consent that benefit of increased service as provided under Regulation 29(5) shall not be available to the employees who opted for the voluntary retirement under the 2001 Scheme. Appellants who opted for voluntary retirement under the 2001 Scheme with open eyes and explicit conditions cannot subsequently turn down and claim the benefit under Regulation 29(5) which was expressly mentioned not to be given to those employees who opted for voluntary retirement.

19. Voluntary Retirement Scheme floated by the employers have been regarded as a “golden hand shake” between the employer and employee. The benefits of accepting voluntary retirement under the

2001 Scheme are expressly indicated to the employees and they were free to opt for voluntary retirement under the Scheme. The 2001 Scheme further provided that those who wanted to withdraw from the Scheme can withdraw from the said Scheme by 28th Feb., 2001. Clause 12 of the 2001 Scheme provided for withdrawal which is quoted as below:

“12. Withdrawal of application under (SBVTRS):-

Employee who has submitted an application for retirement under SBVTRS may be permitted to withdraw the application on or before 28th February, 2001. For this purpose, the employee will have to make a written request which must reach the Authority to whom the application for retirement under SBTVRS has been submitted, on or before 28th February, 2001. The authority receiving the applications for withdrawal must forward it to the competent authority immediately, but not later than the following day and obtain a confirmation to that effect from the competent authority.”

20. We find enough substance in the submission of the learned counsel for the Bank that the appellants having accepted the terms and conditions of the

voluntary retirement as delineated in the 2001 Scheme they cannot claim any additional benefit after acceptance. Express condition under clause 9, the general condition clearly provided that employees seeking retirement under 2001 Scheme will not dispute the payment received under the Scheme on any ground whatsoever. Thus there was no right for the appellants to claim any further benefit after opting to retire under the 2001 Scheme nor the Bank was obliged to consider any such request. The Bank has rightly rejected the claim of the appellants for the benefit under Regulation 29(5) by its reply dated 28.02.2002 as quoted above. Reasons given by the Bank for refusing to extend the the benefit under Regulation 29(5) were valid and have to be upheld.

21. The Apex Court had occasion to consider right of the employee who accept voluntary retirement under the voluntary retirement scheme regarding any other

claim in addition to the one provided under the Voluntary Retirement Scheme, in **B.K. Bindal v. Union of India** (supra) wherein the following was laid down paragraph 34:

"34. This shows that a considerable amount is to be paid to an employee ex - gratia besides the terminal benefits in case he opts for voluntary retirement under the Scheme and his option is accepted. The amount is paid not for doing any work or rendering any service. It is paid in lieu of the employee himself leaving the services of the company or the industrial establishment and foregoing all his claims or rights in the same. It is a package deal of give and take. That is why in business world it is known as 'Golden Handshake'. The main purpose of paying this amount is to bring about a complete cessation of the jural relationship between the employer and the employee. After the amount is paid and the employee ceases to be under the employment of the company or the undertaking, he leaves with all his rights and there is no question of his again agitating for any kind of his past rights, with his erstwhile employer including making any claim with regard to enhancement of pay scale for an earlier period. If the employee is still permitted to raise a grievance regarding enhancement of pay scale from a retrospective date, even after he has opted for Voluntary Retirement Scheme and has accepted the amount paid to him, the whole purpose of introducing

the Scheme would be totally frustrated."

22. The judgment of the Apex Court on which heavy reliance is placed by the learned counsel for the appellants in **Bank of India v. K.Mohandas** (supra) needs to be noted in detail. In the said case the Apex Court had occasion to consider the voluntary retirement Scheme 2000 floated by various Banks including Bank of India. Salient features of VRS 2000 has been noted by the Apex Court in paragraph 8 which is to the following effect:

"8. We may, at this stage, summarise the salient features of VRS 2000. These are :

(I) All permanent employees of the bank who have put in minimum 15 years of service or completed 40 years of age on the date of coming into force of the scheme are eligible for voluntary retirement.

(II) In addition to the normal retirement benefits available to an employee, according to the terms and conditions of his employment in the bank, an employee whose application for voluntary retirement is accepted will be paid a lump sum amount equivalent to 60 days salary for each completed year of service.

(III) The competent authority may accept or reject

the application of an employee for voluntary retirement and the decision of the competent authority shall be final.

(IV) No voluntary retirement shall come into effect unless competent authority has passed orders accepting the applications of the employees to retire voluntarily under the scheme.

(V) The scheme can be withdrawn at the discretion of the bank at any time without assigning any reason.

(VI) It shall be open to the bank to alter / amend the conditions of the scheme. (In the scheme framed by Punjab National Bank such provision is not there).

(VII) The applications made under the scheme will be irrevocable and the employee will not have the right to withdraw the application once submitted.

(VIII) An employee whose application for voluntary retirement is accepted and relieved from the bank shall be eligible for :

(i) gratuity as per Gratuity Act / service gratuity as the case may be;

(ii) own contribution of provident fund and bank contribution towards provident fund, in case of those who have opted for Contributory Provident Fund or own contribution of provident fund and pension in terms of Employees Pension Regulations, 1995, in case of those who have opted for pension and have put in 20 completed years of service in the bank (emphasis supplied) and

(iii) leave encashment as per rules."

23. In the said case issue of benefit under Regulation 29(5) was under consideration. In the above case the employees were given retiral benefits except

the benefits under Regulation 29(5) hence employees had to approach the High Court. There were divergent opinion between various High Courts regarding the applicability of Regulation 29(5). Contention of the parties were noted by the Supreme Court. Some of the contentions of the employees before the Apex Court were noted in paragraph 23(iv) and (vii) which are as quoted below:

"23.

(iv) that by making provision in the Scheme that optees would be eligible for the benefits in addition to the exgratia amount, inter alia, pension as per Pension Regulations, 1995, the employees understood that what was contemplated was pension under Regulation 29. Any ambiguity in VRS 2000 ought to be construed that harmonized with the intention of the parties;

.....

(vii) that each and every paragraph of Regulation 29 can be made applicable to an optee of more than 20 years of service without coming into conflict with any provision of the Scheme; the notice period of three months in Regulation 29(3) can be waived at the discretion of the banks."

24. The Apex Court held that true construction of the contract must depend on the words used and intention of the parties must be obtained from the language they have used. The following was laid down in paragraphs 27, 28 and 33:

"27. In view of the admitted position that VRS 2000 was a contractual scheme; that it was an invitation to offer containing a term that optee will also be eligible for pension as per Pension Regulations; that an application by an employee for voluntary retirement was a proposal or offer and that upon acceptance of the application for voluntary retirement made by the employee and a communication of acceptance to him, the concluded contract came into existence and the offeree was relieved from the employment, for consideration of the question posed herein, the court need to examine the contract and the circumstances in which it was made in order to see whether or not from the nature of it, the parties must have made their bargain on the footing that a particular thing or state of things would continue to exist.

28. The true construction of a contract must depend upon the import of the words used and not upon what the parties choose to say afterwards. Nor does subsequent conduct of the parties in the performance of the contract affect the true effect of the clear and

unambiguous words used in the contract. The intention of the parties must be ascertained from the language they have used, considered in the light of the surrounding circumstances and the object of the contract. The nature and purpose of the contract is an important guide in ascertaining the intention of the parties.

33. What was, in respect of pension, the intention of the banks at the time of bringing out VRS 2000? Was it not made expressly clear therein that the employees seeking voluntary retirement will be eligible for pension as per Pension Regulations? If the intention was not to give pension as provided in Regulation 29 and particularly sub regulation (5) thereof, they could have said so in the scheme itself. After all much thought had gone into the formulation of the VRS 2000 and it came to be framed after great deliberations. The only provision that could have been in mind while providing for pension as per Pension Regulations was Regulation 29. Obviously, the employees, too, had benefit of Regulation 29(5) in mind when they offered for voluntary retirement as admittedly Regulation 28 as was existing at that time was not applicable at all. None of the regulations 30 to 34 was attracted. It appears that VRS 2000 evoked huge response, much more than expected and then began the second thought. At the fag end of operation of VRS 2000, at the instance of NBA, the banks proposed amendment in the Pension Regulations and a circular came to be issued. But, by that time, ball had gone out of the hands of the employees; they had already made their offers

which were irrevocable; it was not open to them to withdraw the offers as per specific condition incorporated in the scheme (albeit this court in O. P. Swarnakar held that offer could be withdrawn before acceptance) and their offers were accepted and they were relieved. We are afraid, it would be unreasonable if amended Regulation 28 is made applicable, which had not seen the light of the day and which was not the intention of the bank when scheme was framed. The banks in the present batch of appeals are public sector banks and are 'State' within the meaning of Art.12 of the Constitution and their action even in contractual matters has to be reasonable, lest, as observed in O. P. Swarnakar, it must attract the wrath of Art.14 of the Constitution."

25. The Apex Court held that VRS 2000 is a complete package in itself and contractual in nature but when the Scheme provided that employees will be eligible to other benefits as contemplated by the Regulations the real intention have to be found out. The following was observed in paragraphs 50 and 51.

"50. It is true that VRS 2000 is a complete package in itself and contractual in nature. However, in that package, it has been provided that the optees, in addition to exgratia payment, will also be eligible to other benefits inter alia pension under the Pension Regulations.

The only provision in the Pension Regulations at the relevant time during the operation of VRS 2000 concerning voluntary retirement was Regulation 29 and cl.(5) thereof provides for weightage of addition of five years to qualifying service for pension to those optees who had completed 20 years service. It, therefore, cannot be accepted that VRS 2000 did not envisage grant of pension benefits under Regulation 29(5) of the Pension Regulations, 1995, to the optees of 20 years service along with payment of exgratia.

51. *The whole idea in bringing out VRS 2000 was to right size workforce which the banks had not been able to achieve despite the fact that the statutory Regulations provided for voluntary retirement to the employees having completed 20 years service. It was for this reason that VRS 2000 was made more attractive. VRS 2000, accordingly, was an attractive package for the employees to go in for as they were getting special benefits in the form of exgratia and in addition thereto, inter alia pension under the Pension Regulations which also provided for weightage of five years of qualifying service for the purposes of pension to the employees who service for the purposes of pension to the employees who had completed 20 years service."*

The Apex Court in the said case also held that the employees are not resiling from the scheme rather they are seeking enforcement of the clause in the scheme

that provides that the optee will be eligible for pension under the Pension Regulations 1995. Following was laid down by the Apex Court in paragraphs 65 and 66:

"65. Insofar as the present group of appeals is concerned, the employees are not seeking to resile from the Scheme. They are actually seeking enforcement of the clause in the Scheme that provides that the optees will be eligible for pension under the Pension Regulations, 1995. According to them, they are entitled to the benefits of Regulation 29(5). In our considered view, plea of estoppel is devoid of any substance; as a matter of fact it does not arise at all in the facts and circumstances of the case.

66. We hold, as it must be, that the employees who had completed 20 years of service and were pension optees and offered voluntary retirement under VRS 2000 and whose offers were accepted by the banks are entitled to addition of five years of notional service in calculating the length of service for the purposes of that Scheme as per Regulation 29(5) of the Pension Regulations, 1995. The contrary view expressed by some of the High Courts do not lay down the correct legal position."

26. In the above case it is clear that other benefits as was shown in paragraph VIII mentioned that the employees shall be eligible for pension in terms of the

Employees Pension Regulation 1995, **in case those who have opted for pension and put in 20 completed years service in the bank.** Thus there was intendment in the scheme to extend the pensionary benefits under the Regulations in the case to the employees who have completed 20 years of service. All the respondents in the case before the Supreme Court had completed 20 years. The Apex Court held that scheme contained an offer to provide pension as per the Regulations. In the above circumstances the Apex Court held that employees were entitled to the benefit under Regulation 29(5).

27. The main distinguishing feature in the present case with the above case is that in the 2001 Scheme there was clear categorical clause 7(III) which specifically provided that the benefit of increased qualifying service as provided under Regulation 29 (5) of SBT Pension Regulations 1995 will not be applicable to

those who seek voluntary retirement under this scheme.

Thus judgment of the Apex Court in **Bank of India v. K.Mohandas** (supra) is clearly distinguishable and does not help the appellants in the present case. Argument based on estoppel was rejected by the Apex Court in the said case holding that the employees are not seeking to resile from the Scheme rather they are actually seeking enforcement of the clause in the Scheme which provides that they will be entitled to the benefit under Regulation 29(5). Present is a case where the employees having accepted the condition that they shall not be entitled to the benefit under Regulation 29 (5) and they have signed the declaration to that effect are clearly resiling from the Scheme which is not permissible and they are estopped from claiming the benefit under Regulation 29(5).

28. In **Bank of India v. K.Mohandas** (supra) the Apex Court has laid down that for applying the ratio of a

judgment care and caution has to be taken. It was held that a little difference in facts or additional facts may make a lot of difference in the precedents value of a decision. It is useful to refer to paragraphs 54 to 59 which are to the following effect:

"54. A word about precedents, before we deal with the aforesaid observations. The classic statement of Earl of Halsbury, L.C. in Quinn v. Leathem, 1901 AC 495, is worth recapitulating first:

"Before discussing Allen v. Flood, 1898 AC 1 and what was decided therein, there are two observations of a general character which I wish to make; and one is to repeat what I have very often said before that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logically at all."

This Court has in long line of cases followed the aforesaid statement of law.

55. In State of Orissa v. Sudhansu Sekhar Misra, AIR 1968 SC 647, it was observed:

".... A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what

logically follows from the various observations made in it."

56. *In the words of Lord Denning:*
"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

57. *It was highlighted by this Court in Ambica Quarry Works v. State of Gujarat, 1987 (1) SCC 213:*

"18. ... The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

58. *In Bhavnagar University v. Palitana Sugar Mill (P) Ltd., 2003 (2) SCC 111, this Court held that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.*

59. *This Court in Bharat Petroleum Corporation Ltd. v. N. R. Vairamani, 2004 (8) SCC 579, emphasized that the Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which the reliance is placed. It was further observed that the judgments of courts are not to be construed as statutes and the observations must be read in the context in which they appear to have been stated. The Court went on to say that circumstantial applicability, one additional or different fact may make a word of difference between*

conclusions in two cases.”

29. As observed above, there was substantial difference in the 2001 Scheme which is under consideration in this Writ Appeal from the 2000 Scheme which was under consideration before the Apex Court in **Bank of India v. K.Mohandas** (supra) with regard to the applicability of Regulation 29(5). In the case of **Bank of India v. K.Mohandas** (supra) the 2000 Scheme was noted in paragraph 8 of the judgment which has already been quoted wherein the words used in paragraph 8(ii) for admissibility of the pension were to the following effect: **“and pension terms of the Employees Pension Regulations, 1995, in case those who have opted for and put in 20 years of service in the bank..”**. Whereas to the contrary in the 2001 Scheme clause 7(III) expressly excluded the benefit under Regulation 29(5) while enumerating benefits which were to enure in the event of application

of employees accepted for voluntary retirement under the 2001 Scheme. We thus are of the considered opinion that judgment of the Apex Court in **Bank of India v. K.Mohandas** (supra) is not applicable to the facts of the present case and the submission of the learned counsel for the appellants that the present case is covered by the decision in **Bank of India v. K.Mohandas** (supra) cannot be accepted.

30. There is another reason on account of which submission of the appellants that Regulation 29(5) is applicable in the present case has to be rejected. As noted above, Regulation 29 related to 'pension on voluntary retirement.' Regulation 29(1) provided that an employee who has completed 20 years of qualifying service by giving notice not less than three months in writing to the competent authority retire from service. The said right was given to an employee to seek voluntary retirement. Regulation 29(5) was thus

envisaged in such a situation where *an employee seeks voluntary retirement after giving a notice*. Voluntary retirement under the 2001 Scheme is not akin to voluntary retirement as contemplated in Regulation 29. In this context reference of the Apex Court judgment in **Bank of Baroda v. Ganpat Singh Deora** ([2009] 3 SCC 217) is relevant. In the above case the Apex Court was considering the provisions of the Bank of Baroda (Employees') Pension Regulations, 1995 and the Bank of Baroda Employees Voluntary Retirement Scheme, 2001. Regulation 29 of the Bank of Baroda (Employees') Pension Regulations, 1995 was identical to the Regulation 29 of the SBT Regulations 1995. In **Bank of Baroda v. Ganpat Singh Deora** (supra) the employees who had completed 13 years of service and attained the age of 40 years opted for voluntary retirement. Application of the employees was accepted by the bank and was paid retiral benefits under the

Scheme but request for grant of pension in addition to other benefits was not accepted by the bank. The matter was referred to the Industrial Tribunal, Jodhpur which gave an award in favour of the employees which was challenged by Bank of Baroda by filing Writ Petition under Article 226 of the Constitution of India. Respondent-employee also filed an application for implementation of the award passed by the Tribunal. Writ Petition filed by the employee was dismissed by the High Court observing that the Industrial Disputes Act itself is a self contained provision for enforcement of the award. Aggrieved by the said judgment a Special Appeal was filed before the Division Bench. The Division Bench by a common judgment decided the Special Appeal filed by the employee as well as the Writ Petition filed by the Bank against the award of the Tribunal. The Division Bench dismissed the Writ Petition filed by the Bank and allowed the writ petition filed by employees

against which the matter was taken to the Supreme Court. A submission was raised on behalf of the employee before the Apex Court that terms and conditions of the voluntary retirement scheme 2000 were quite different from the voluntary retirement contemplated under Regulation 29. The said submission was noted by the Apex Court in paragraph 23 which is to the following effect:

“23. Ms.Bhati also urged that the terms and conditions of Voluntary Retirement Scheme were quite different from the voluntary retirement contemplated under Regulation 29. Learned counsel urged that the impugned judgment of the High Court had been passed on a correct interpretation of the Regulations and did not warrant any interference.”

31. The Apex Court accepted the above submission and held down that there is a distinct difference between the two situations and Regulation 29 would not cover the case of the employees opting to retire under the voluntary retirement scheme of Bank. The following

was laid down in paragraphs 28 and 31:

28. However, we are inclined to agree with Ms.Bhati that Regulation 29 does not contemplate voluntary retirement under the Voluntary Retirement Scheme and applies only to such employees who themselves wish to retire de hors any scheme of voluntary retirement, after having completed 15 years of qualifying service for the said purpose. There is a distinct difference between the two situations and Regulation 29 would not cover the case of an employee opting to retire on the basis of a voluntary retirement scheme.

31. The facts of this case, however, do not attract the provisions of Regulation 29 since the respondent accepted the offer of voluntary retirement under the Scheme framed by the Bank and not on his own volition de hors any Scheme of Voluntary Retirement. In such a case, Regulation 14 read with Regulation 32 providing for premature retirement would not also apply to the case of the respondent. While Regulation 2 of the BOBEVRS-2001 speaks of eligibility for applying under the Scheme, Regulation 14 of the Pension Regulations, 1995, contemplates a situation whereunder an employee would be eligible for premature pension. The two provisions are for two different purposes and for two different situations. However, Regulation 28 of the Pension Regulations, 1995, after amendment made provision for situations similar to the one in the instant case."

The above judgment fully supports the submission made by the learned counsel for the Bank. Regulation 29 which is attracted in case of voluntary retirement notice given by an employee de hors any voluntary retirement scheme of the Bank.

32. A Division Bench of this Court had also occasion to consider Regulation 29 of the State Bank of Travancore (Employees') Pension Regulations, 1995 and 2001 Scheme in W.A. Nos.937 and 937 of 2014 (**State Bank of Travancore v. C.M.Paul & others and State Bank of Travancore v. T.A. Chellappan Achari and another**). The Division Bench after noticing the relevant Regulations of the 1995 Regulation has expressed the same view that the benefit under Regulation 29 is not akin to the voluntary retirement under a Scheme. Following observations were made by the Division Bench:

"As noted above, Regulation, 1995 defines different

concept of pension by the Bank i.e., superannuation pension (Regulation 28), pension on voluntary retirement (Regulation 29), premature retirement pension (Regulation 32) and compulsory retirement pension (Regulation 33). Regulation 29 gives an option to an employee who has completed 20 years' of qualifying service by giving not less than three months' notice in writing to the competent authority retire from service. The retirement under Scheme, 2001 cannot be said to be voluntary retirement as envisaged in Regulation 29."

33. A similar issue was also considered by the Division Bench of the Punjab and Haryana High Court in **State Bank of Patiala v. Pritam Singh Bedi and Others** ([2009] 3 SLR 305). The Division Bench held that Regulation 29 is not applicable to the retirement under a voluntary retirement scheme of Bank. The Punjab and Haryana High Court was considering a similar scheme, viz., State Bank of Patiala Employees' Voluntary Retirement Scheme 2000. There was also statutory regulation, viz., State Bank of Patiala Employees (Pension) Regulations, 1995 containing Regulation 29 to the similar effect. Against the

judgment of the Division Bench judgment the matter was taken in SLP and the Apex Court in **State Bank of Patiala v. Pritam Singh Bedi** (2014 (13) SCC 474) had affirmed the Division Bench judgment of the Punjab and Haryana High Court. It is useful to quote paragraph 4 where the view taken by the Division Bench of the Punjab and Haryana High Court was extracted which is to the following effect:

"4.

A perusal of Regulation 28 shows that attaining the age of superannuation specified in Regulations or settlements pension is payable. The age of superannuation has been laid down in Service Regulations which is said to be 60 years now and earlier it was 58 years. But under the Voluntary Retirement Scheme, which according to the writ petitioners will be on a par with Settlement, the requirement is 15 years of service or 40 years of age, which admittedly the writ petitioners had. Under Regulation 32 the pension is payable on premature retirement on account of orders of the Bank if the employee was otherwise entitled to pension/superannuation on that day. Read with Regulations 14 and 28, the said age is 60 years and if read with the Scheme, it is 5 years of service or 40 years of

age and in either case the employees were covered by the pension scheme. The Hon'ble Supreme Court held that Regulation 29 relating to retirement was not applicable. Thus, contention on behalf of the Bank that Regulation 29 applied and therefore, pension payable only after 20 years' service cannot be accepted."

The Apex Court dismissed the Special Leave Petition by affirming the judgment of the Punjab and Haryana High Court.

34. In view of the forgoing discussion, we are of the view that the learned Single Judge did not commit any error in dismissing the Writ Petition filed by the appellants claiming the benefits under Regulation 29(5). We do not find any merit in the Writ Appeal.

The Writ Appeal is dismissed. Parties shall bear their own costs.

ASHOK BHUSHAN, Ag. C.J.

A.M. SHAFFIQUE, JUDGE.