IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 31342 of 2003 (F)

PETITIONERS :
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1. GEORGE PUTHENANGADI, ASST.MANAGER (RETIRED)
   HOPEDALE, SHENOY ROAD,
   KALOOR, KOCHI-17.

2. C.A.JOSEPH, ASST.MANAGER (RETIRED)
   CHAMPAKARA HOUSE, MADAKKATHANAM,
   VAZHAKKULAM P.O, ERNAKULAM DISTRICT

3. JOSEPH M.ALEXANDER, ASST.MANAGER (RETIRED)
   MANIKKANAM PARAMBIL HOUSE, AVOLY P.O
   MUVATTUPUZHA, ERNAKULAM

4. V.P.JOY, VELIYATH HOUSE, ASST.MANAGER (RETIRED)
   OPP.LISSIE HOSPITAL, KOCHI - 18

5. K.A.JOSE, ASST.MANAGER (RETIRED)
   HOUSE NO.1/108,
   ANUGRAHA, SOUTH CHITTOOR P.O., KOCHI - 27

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS :
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1. STATE BANK OF INDIA, REPRESENTED BY THE CHIEF GENERAL MANAGER,
   LOCAL HEAD OFFICE, CHENNAI

2. THE CHIEF GENERAL MANAGER, STATE BANK OF INDIA
   LOCAL HEAD OFFICE, THIRUVANANTHAPURAM

3. THE DEPUTY GENERAL MANAGER, STATE BANK OF INDIA,
   SHANMUGHAM ROAD, ZONAL OFFICE, ERNAKULAM

R3 BY ADVS. SRI.P.G.PARAMESWARA PANICKER (SR.)
SRI.P.GOPAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 31342 of 2003 (F)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF ORDER NO.HO.PD429/78 DATED 01.02.78 OF THE CHAIRMAN, BANK OF COCHIN LIMITED

EXT.P2 : COPY OF LETTER DATED 24.2.00 OF THE 3RD RESPONDENT

EXT.P3 : COPY OF CIRCULAR NO.DO:PER:74 DATED 24.01.98 OF THE 1ST RESPONDENT

EXT.P4 : COPY OF LETTER DATED 15.12.97 ADDRESSED TO THE FIRST PETITIONER

EXT.P5 : COPY OF LETTER DATED 15.12.97 TO THE 3RD PETITIONER

EXT.P6 : COPY OF LETTER DATED 15.12.97 TO THE 4TH PETITIONER

EXT.P7 : COPY OF CIRCULAR NO.DO:PER:89 DATED 3.399 OF THE FIRST RESPONDENT

EXT.P8 : COPY OF CIRCULAR NO.DO:PER:32 DATED 15.07.99 OF THE FIRST RESPONDENT

EXT.P9 : COPY OF CIRCULAR NO.DO:PER:21 DATED 14.07.2000 OF THE FIRST RESPONDENT

EXT.P10 : COPY OF CIRCULAR NO.CIR/DO/VRS/01 DATED 5.1.2001 ISSUED BY THE 2ND RESPONDENT

EXT.P11 : COPY OF 1ST PETITIONERS PENSION PAPER

EXT.P12 : COPY OF PENSION PAPERS OF THE 2ND PETITIONER

EXT.P13 : COPY OF LETTER NO.SBI/WI/2 DATED 14.03.2001 ADDRESSED TO THE 5TH PETITIONER

EXT.P14 : TRUE COPY OF 5TH PETITIONER'S PENSION PAPERS

EXT.P15 : COPY OF THE CIRCULAR DATED 8.1.2001 OF THE RESPONDENTS

RESPONDENTS' EXHIBITS :

EXT.R2(a) : COPY OF THE CIRCULAR DATED 8.1.2001

EXT.R2(b) : COPY OF THE CIRCULAR DATED 11.1.2001

/TRUE COPY/

P.A TO JUDGE

AV

K.VINOD CHANDRAN, J.

W.P.(C) No.31342 of 2003

Dated this the 12th day of October, 2015

J U D G M E N T

The petitioners are erstwhile employees of the Bank of Cochin which was amalgamated with the State Bank of India. On amalgamation, the employees of the Bank of Cochin were absorbed in the State Bank of India, but however their service and conditions were regulated by the scheme of amalgamation itself. The period of service spent in the Bank of Cochin was considered as service in the State Bank of India; on a ratio as per the scheme. The petitioners in the present writ petition are aggrieved with the fact that, they had not been considered for promotion under the Separate Dispensation Scheme, as per Ext.P3 and that, they were excluded from the medical benefits of the State Bank of India Retired Employees Medical Benefit Scheme (Medical Benefit Scheme).

2. With reference to the Separate Dispensation, at the outset it is to be noticed that the petitioners have challenged their alleged denial after their voluntary retirement. The scheme itself was dated 24.01.1998 and the same was brought in, to avoid stagnation of certain officers, who were in the

Junior Management Cadre between 01.10.1979 and 31.12.1980. The scheme intended that the promotions will be made in four phases effective retrospectively from 1st of November of 1996, 1997, 1998 and 1999. The scheme also indicated that, list of eligible candidates would be prepared and at one point only 25% would be considered for such promotion which again has to be restricted to 50% of the available vacancy.

3. The short contention put forward by the Bank is that, none of the petitioners came within the zone of consideration for being promoted. The same would not also be reviewable after the retirement of the petitioners. In such circumstances, the petitioners are not eligible for any relief as against the claim made under Ext.P3 scheme.

4. The further contention is with respect to the eligibility under the Medical Benefit Scheme. Admittedly the petitioners retired under the Voluntary Retirement Scheme which was notified as per Ext.P10. The petitioners, with open eyes, applied under the scheme and went on retirement after receiving the ex-gratia payment, as per the Scheme in addition to the retirement benefits, which alone was the normal

incidence of their service. There was a Medical Benefit Scheme in operation in the Bank which was also extended to the persons retiring under the Voluntary Retirement Scheme by Ext.R2(a), but however on specific conditions. Ext.R2(a) indicated that, only employees who have put in minimum 30 years of pensionable service would be eligible to join the Medical Benefit Scheme. When the said benefit was extended, the respondent Bank also gave an opportunity to the employees to withdraw from any application made under the Voluntary Retirement Scheme as per Ext.R2(b). Admittedly, the petitioners chose to press their application under the scheme and get retired voluntarily.

5. None of the petitioners had 30 years of service. Hence, they were disentitled as per Ext.R2(a). The further contention raised by the petitioners is that, the Medical Benefit Scheme provided for even pensioners with 10 years of service to be covered under the scheme and Ext.R2(a) having not provided such a condition, is arbitrary and discriminatory. The conditions of the Medical Benefit Scheme itself has been extracted by the respondent in its counter affidavit as hereunder :

"(a) Those who retired from the bank on completion of 30 years of pensionable service.

(b) Those who are allowed to retire from the bank's service on medical grounds and are sanctioned pension in terms of Rule No.22 (1)(b) or 22(ii) of State Bank of India Employees Pension Fund Rules.

(c) Those who retire on attaining the superannuation age of 60 years, after completing 10 years of pensionable service"

Hence, the coverage under the scheme also is intended for persons who completed 10 years of pensionable service, but retiring on attainment of superannuation age.

6. The non-inclusion of the said condition in Ext.R2(a) cannot be said to be arbitrary or discriminatory, since under the Voluntary Retirement Scheme all were retiring prior to the age of superannuation, being 60 years. Further the Bank had given an opportunity to those persons who had applied under the VRS Scheme to withdraw from their scheme, which was also not acted upon by any of the petitioners. The question of retirees under the Voluntary Retirement Scheme seeking benefits after having accepted the additional benefits of the scheme and having left the services has been considered elaborately in ***Bank of India v. O.P.Swarnakar [(2003) 2 SCC 721]*** and ***HEC Voluntary Retd. Employees Welfare***

Society v. Heavy Engineering Corpn. Ltd. [(2006) 3 SCC 708]. It was held that in applying under a voluntary retirement scheme, the employee opts out of the general terms and conditions of the contract of employment. The scheme for Voluntary Retirement Scheme was held to be an invitation, which on acceptance by the employee; fructifies into a concluded contract.

For the aforesaid reasons and the binding precedents, this writ petition is devoid of merit and is dismissed. No costs.

Sd/-
K.VINOD CHANDRAN, JUDGE

AV/13/10/