

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

AND

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Review W.A.M.P.No.678 of 2015 in W.A.No.1174 of 2006,

Review W.A.M.P.No.677 of 2015 in W.A.No.1339 of 2006,

Review W.A.M.P.No.817 of 2015 in W.A.No.1343 of 2006 &

Review W.A.M.P.No.813 of 2015 in W.A.No.163 of 2007

and

W.A.Nos.1174, 1339, 1343 of 2006 and 163 of 2007

And

C.C.Nos.417, 418, 454 & 652 of 2014

COMMON ORDER: (Per Hon'ble Sri A.Rajasheker Reddy)

All these Writ Appeal Miscellaneous Petitions are filed seeking review of the judgments in W.A.Nos.1174, 1339, 1343 of 2006 and 163 of 2007 and as the issue involved in all these Review Petitions is one and the same, they are being heard together and disposed of by way of this Common Order. The review petitioner is the Bank, common in all the petitions and the respondents are employees of the review petitioner Bank. .

2. For the sake of convenience, we refer to the facts and circumstances and parties as arrayed in the Writ Appeals.

The case of the review petitioner-Bank (for brevity 'petitioner-Bank') is that the respondents have resigned from the Banking service between the years 1991 to 1993 by giving three months' notice on various grounds and the same were accepted by the petitioner-Bank. Representations made by the respondents for grant of pension under Pension Scheme introduced in the year 1995 were rejected by the Bank stating that the Pension Scheme is not applicable to the employees who have resigned their job. Aggrieved by the same, the respondents preferred writ petitions i.e., W.P.Nos 24620 of 2000, 26813 of 2000, 1123 of 2001, 24042 of 2003 and the same were allowed by the learned Single Judge in terms of the orders dated 22.08.2005 in W.P.No.12564 of 1998 [D.Malleswara Rao v. Andhra Bank, Hyderabad and another [2005 (5) ALD 838]. Aggrieved by the orders passed in the writ petitions, the petitioner Bank

preferred present writ appeals, out of which present review petitions arise and the same were also dismissed by relying on the judgment in W.A.No.1899 of 2005, which was filed aggrieved by the order dated 22.08.2005 in W.P.No.12564 of 1998, as if the facts and circumstances are similar. Subsequently, the review petitioners filed SLP Nos.35393-35395 of 2013 before the Hon'ble Supreme Court and withdrawn the same with liberty to seek review of the orders passed in the Writ Appeals. Hence, the review petitions.

3. Dr.K.Lakshmi Narasimha, learned Standing Counsel for the Petitioner-Bank and Sri A.K.Jayaprakash Rao, learned counsel for the respondents advanced their arguments both in review applications as well as main Writ Appeals, as such, they are being disposed of together.

4. Learned Standing Counsel for petitioner Bank would submit that the Hon'ble Supreme Court in **M.R.Prabhakar and others v. Canara Bank and others** by interpreting identical Pension Regulations, upheld the contention of Bank therein declining grant of pension to employees who have resigned from service by the date Pension Scheme came into force. He submits that present Writ Appeals are dismissed basing on judgment in W.A.No.1899 of 2005 erroneously as facts are not similar in both cases. He contends that in view of the error apparent on the face of record while passing the impugned judgments in the Writ Appeals, the same are liable to be reviewed. In support of his contention, he relied on the judgments reported in **Raja Shatrunji v. Mohammad Azmat Azim Khan and others**, **S.Bagirathi Ammal v. Palani Roman Catholic Mission**, **Gangadhara Palo v. Revenue Divisional Officer and another** and **Haryana State Industrial Development Corporation Limited v. Mawasi and others**.

5. On the other hand, Sri A.K.Jayaprakash Rao, learned counsel for the respondents submit that the petitioner Bank itself stated that the issue in these present cases is covered by the judgment in Writ Appeal No.1899 of 2005 dated 30.08.2013. Basing on the said representation by the learned Standing Counsel for the petitioner-Bank, this Court allowed the writ petitions filed by the respondents and also dismissed the Writ Appeals filed by the petitioner Bank. Now they cannot turn around and contend that the same is not covered by the Judgment of this Court in W.A.No.1899 of 2005. He also submits that the

review petitions are not maintainable and that the Petitioner-Bank under the garb of Review Petition, cannot seek for rehearing of the Writ Appeals. Review Petition is maintainable only when there is an error apparent on the face of record while passing the order under review, but not otherwise. He would further contend that the scope of review is very limited under Order 47 Rule 1 of CPC and the case of the review petitioner does not fall within the parameters of Order 47 Rule 1. In support of his contention, he relied on the judgment reported in **N.Anantha Reddy v. Anshu Kathuria and others** and also the Common Order in Review W.A.M.P.No.3641 of 2013 and batch dated 22.04.2015. He would further contend that even otherwise on merits, in similar circumstances, the Hon'ble Apex Court also held that even the resignation shall be treated as voluntary retirement in the case of **Sheelkumar v. New India Assurance Co.**, in Civil Appeal No.6013 of 2011, dated 28.07.2011 arising out of S.L.P.(C) No.3777 of 2007. In support of his contention, he relied on the judgments in the case of **Y.Shivaji v. Andhra Bank and others** in W.P.No.1033 of 2011, dated 26.03.2012 of this Court, W.A.Nos.902 and 905 of 2012 dated 08.08.2013, W.P.No.9069 of 2011, dated 22.03.2012 and also the judgment of Karnataka High Court in R.P.No.68 of 2013 & R.P.Nos.331-351/2013 in W.A.Nos.2956-2977/2012, dated 25.10.2013.

6. We have considered the submissions made by the learned counsel on either side and perused the entire material made available on record.

The admitted facts in these Writ Appeals are that all the respondents have resigned from the service during the period from 1991 to 1993 and their resignations were duly accepted by the petitioner-Bank and the amounts to which they are entitled, were paid to them, as per the Rules existing then. The Writ Petitions filed by the respondents were not heard on merits and same were allowed by relying on the judgment of this Court in W.P.No.12564 of 1998, dated 22.08.2005 and the Writ Appeals, which were directed against the orders in the said writ petitions, were also dismissed by relying on the judgment dated 30.08.2013 in W.A.No.1899 of 2005, without going into the merits of the case.

7. In Writ Appeals, a specific ground is taken stating that the facts and circumstances in these Writ Appeals differ from the facts in W.A.No.1899 of 2005, which was directed against orders in W.P.No.12564 of 1998, wherein the

petitioner applied for Voluntary Retirement and the petitioner-Bank treated the same as Resignation. But in these Writ Appeals, the respondents have themselves submitted resignations and the review petitioner-Bank accepted the same and paid the benefits accordingly.

Hence the facts in W.A.No.1899 of 2005 and in the present Writ Appeals are totally different. This distinction was not brought to the notice of this Court when Writ Petitions and Writ Appeals were disposed of. Only when the SLPs were filed before the Hon'ble Supreme Court against the Judgments in these Writ Appeals, the said distinction was brought to the notice of the Supreme Court. Upon which, learned counsel for the petitioner-Bank withdrawn those Special Leave Petitions with liberty to seek review of the orders in the Writ Appeals, which goes to show that there is an error apparent on the face of record while allowing the Writ Petitions as well as dismissing the Writ Appeals out of which present review petitions arise.

8. Learned counsel for the respondents vehemently contends that the review jurisdiction is very limited and unless there is mistake apparent on the face of the record, the order/judgment cannot be reviewed. In support of his contention, he relied on the Common Order passed by a Division Bench of this Court in review WAMP No.3641 of 2013 & batch and judgment reported in **N.Anantha Reddy v. Anshu Kathuria and others (supra)**. In the aforesaid judgment, the Hon'ble Supreme Court held as follows:

“6. A careful look at the impugned order would show that the High Court had a fresh look at the question whether the appellant could be impleaded in the suit filed by the respondent No. 1 and, in the light of the view which it took, it recalled its earlier order dated 08.06.2011. The course followed by the High Court is clearly flawed. The High Court exceeded its review jurisdiction by reconsidering the merits of the order dated 08.06.2011. The review jurisdiction is extremely limited and unless there is mistake apparent on the face of the record, the order/judgment does not call for review. The mistake apparent on record means that the mistake is self evident, needs no search and stares at its face. Surely, review jurisdiction is not an appeal in disguise. The review does not permit rehearing of the matter on merits.”

In the aforesaid decision, application filed by the appellant for his impleadment as a proper party in the suit filed by the respondent against Municipal Corporation was allowed by the trial Court and the revision

preferred against the said order was dismissed by the High Court by its order dated 08.06.2011. Upon review filed by the respondent therein, the High Court had recalled its order dated 08.06.2011 and directed trial Court to consider application for impleadment afresh. But in the instant case on hand, the facts are otherwise. In the present case, the writ petitions filed by the respondents were allowed basing on the orders passed in W.P.No.12564 of 1998, wherein the petitioner has submitted application seeking voluntary retirement, but the Bank has treated the same as resignation. But in the present writ petitions filed by the respondents herein, their case itself is that they themselves submitted resignations and not sought for voluntary retirement. As such, there is an error apparent on the face of record. Therefore, the aforesaid decision relied on by the learned counsel for the respondents has no application to the facts of the present case as the same was rendered in different context.

9. In **S.Bagirathi Ammal v. Palani Roman Catholic Mission (supra)**, wherein the Hon'ble Supreme Court held as follows:

“A reading of the above provision makes it clear that Review is permissible (a) from the discovery of new and important matter or evidence which, after the exercise of due diligence could not be produced by the party at the time when the decree was passed; (b) on account of some mistake; (c) where error is apparent on the face of the record or is a palpable wrong; (d) any other sufficient reason. If any of the conditions satisfy, the party may apply for a review of the judgment or order of the Court which passed the decree or order. The provision also makes it clear that an application for Review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.

12. An error contemplated under the Rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. In other words, it must be an error of inadvertence. It should be something more than a mere error and it must be one which must be manifest on the face of the record. When does an error cease to be mere error and becomes an error apparent on the face of the record depends upon the materials placed before the Court. If the error is so apparent that without further investigation or enquiry, only one conclusion can be drawn in favour of the appellant, in such circumstances, the review will lie. Under the guise of review, the parties are not entitled re-hearing of the same issue but the issue can be decided just by a perusal of the records and if it is manifest can be set at right by reviewing the order.”

As contended by Dr.K.Lakshmi Narasimha, learned Standing Counsel, in

W.A.No.1899 of 2005 the respondent therein filed letter seeking voluntary retirement, but the petitioner-Bank treated the same as resignation, as there was no such scheme of voluntary retirement available with the Bank. In those circumstances, this Court found fault with the Bank stating that the Bank ought not to have treated the letter of Voluntary Retirement as resignation. But in the review petitions, the respondents have themselves submitted their letters of resignations before the Pension Scheme of 1995 was introduced. Even according to the writ affidavits filed by the respondents in the Writ Petitions, they have submitted resignations to the Bank and that there is a clear distinction between the facts and circumstances in writ petitions filed by the respondents herein with that of W.P.No.12564 of 1998 and that the said fact could brought to the notice of this Court in spite of due diligence. When the same was noticed and brought to the notice of the Hon'ble Apex Court, the Apex Court permitted the Petitioner-Bank to withdraw SLPs and seek review of the judgments in Writ Appeals filed by the Bank.

10. The error in this case is an error of inadvertence and is manifest and apparent on the face of record. Hence reviews are liable to be allowed. Accordingly, all the review petitions are allowed.

11. In order to appreciate the rival contentions for deciding the Writ Appeals, it is pertinent to take note the facts and relevant provisions of the Andhra Bank (Employees) Pension Regulations, 1995 (for brevity 'the Regulations of 1995') which are made in exercise of the powers conferred by Clause (f) of sub-section (2) of Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 by the Board of Directors of the Bank after consultation with the Reserve Bank of India and with the previous sanction of the Central Government.

12. Admittedly, the respondents have submitted resignations in between the year 1991 to 1993 and at that time there was no scheme of voluntary retirement under Pension Scheme as Andhra Bank (Employees) Pension Regulations came into effect only from 29.09.1995. It is also not in dispute that on the date of the resignations by the respondents, either the petitioner Bank or the respondents are aware of the Pension regulations which came only in the year 1995. As per Regulation 3(1)(a) of the Regulations the Pension scheme is applicable to the employees who were in the service of the Bank on or after the

1st day of January, 1986 but had retired before the 1st day of November, 1993. In fact, in the instant case, the respondents have submitted resignations even before the Pension Scheme came into force. It is not the case of the respondents that they have made applications seeking Voluntary Retirement. The main thrust of the arguments advanced on behalf of the learned counsel for the respondents is that though the respondents have submitted resignations, they are eligible for Pension, as the petitioner Bank has treated the same as resignation and paid the benefits when another employee of the same Bank submitted application for voluntary retirement.

13. As contended by Dr. Lakshmi Narasimha, Regulation 22 (1) of the Regulations of 1995 makes it clear that any employee of the Bank, who submitted resignation shall entail forfeiture of entire past service and consequently not qualify for pensionary benefits.

Regulation 19 (2) of Regulations of 1982 reads as follows:

“19. Age of Retirement:

1.....

2. the Bank shall constitute of Special Committee/Special Committees consisting of not less than three members, to review, whether an Officer Employee' should be retired in accordance with the first proviso to Sub-Regulation (1). Such Committee/Committees shall from time to time, review the case of each Officer Employee, and no order of retirement shall be made unless the Special Committee/Special Committees recommends in writing to the Competent Authority the retirement of the employee.

Guidelines issued by the Government in terms of Regulation 19 of Andhra Bank Officers' Service Regulations, 1982.

The age of retirement of an Officer Employee in the Bank shall be determined in accordance with the following conditions:-

- a. Subject to the provisions of the rules, every Officer shall retire from the service on the afternoon of the last day of the month in which he attains the age of 60 years. Provided that the Officer whose date of birth is 1st of month, shall retire from the service on the afternoon of the last day of the preceding month on attaining the age of 60 years.
- b. No extension shall be given to any Officer Employee beyond 60 years of age.”

Admittedly, none of the respondents fall within the ambit of Regulation 19 of the Regulations 1982 and that none of the respondents herein have retired from

their service but have submitted resignations.

14. It is pertinent to note that the petitioner Bank has formulated certain guidelines to provide pensionary benefits who seeks voluntary retirement or premature retirement by the Bank before attaining the age of superannuation in accordance with the provisions contained in Regulation 29 of the Regulations of 1995. It is not the case of the respondents that they attained the age of superannuation or that they sought voluntary retirement for availing the pension on voluntary retirement as the Regulation 29 categorically states that these provisions came into effect only with effect from 01.11.1993. There was no such scheme available with the petitioner Bank for voluntary retirement when the respondents have resigned from the Bank. Therefore, the contention of the learned counsel for the respondents that the respondents are entitled for payment of pension in terms of Regulations of 1995 does not merit consideration when the respondents have not attained the age of superannuation in between 01.01.1986 to 01.11.1993 or they have voluntarily retired after 01.11.1993 to claim the benefits under Pension Regulations.

15. As contended by learned Standing Counsel for the review petitioner Bank that when once the respondents have accepted the terminal benefits at the time of submitting their resignations, they are estopped from agitating their grievance for consideration of their cases for pension under voluntary retirement. As contended by the learned Standing Counsel that there is a clear distinction between retirement and resignation and resignation is itself an end to the employee and employer relationship. Since the respondents have submitted resignations, the same cannot be treated or equated with that of retirement, which provides for pension. Therefore, the Pension Regulations of 1995 are not applicable to the respondents as they will not fall within the eligibility criteria specified supra under the Regulations of 1995.

In **M.R.Prabhakar and others v. Canara Bank and others(supra)**, the Hon'ble Supreme Court held as follows:

“14. The appellants, in our view, did not retire from the service, but resigned from the service. Appellants tried to build up a case that in the absence of a legal definition of ‘voluntary retirement’ or in the absence of legally prescribed consequences of ‘resignation’, it must be understood in the sense of voluntary relinquishment of service. It was pointed out that there can be no distinction between ‘voluntary retirement’ and ‘resignation’ and those expressions are to

be understood in their ordinary literal sense.

15. We find it difficult to accept the contentions raised by the appellants. There is no ambiguity in the definition clause under Regulation 2(y) which has statutorily brought in the 'voluntarily retirement' as 'retirement'. Though the concept of 'resignation' is well known in Service Jurisprudence, the same has not been brought within the definition of 'retirement' under Regulation 2(y). Further, the words 'retired' and 'retirement' have some resemblance in their meanings, but not 'resignation'. Regulation 3(1)(a) specifically used the expression 'retirement' and the expression 'resignation' has not been incorporated either in the definition clause or in Regulation 3(1) (a). We need not labour much on this issue, since the difference between these two concepts 'resignation' and 'retirement', in the context of the same Banking Regulations 1995, came up for consideration before this Court in **Sanwar Mal** (supra), wherein this Court has distinguished the words 'resignation' and 'retirement' and held as follows:

“9. The words "resignation" and "retirement" carry different meanings in common parlance. An employee can resign at any point of time, even on the second day of his appointment but in the case of retirement he retires only after attaining the age of superannuation or in the case of voluntary retirement on completion of qualifying service. The effect of resignation and retirement to the extent that there is severance of employment but in service jurisprudence both the expressions are understood differently. Under the Regulations, the expressions "resignation" and "retirement" have been employed for different purpose and carry different meanings. The pension scheme herein is based on actuarial calculation; it is a self financing scheme, which does not depend upon budgetary support and consequently it constitutes a complete code by itself. The scheme essentially covers retirees as the credit balance to their provident fund account is larger as compared to employees who resigned from service. Moreover, resignation brings about complete cessation of master and servant relationship whereas voluntary retirement maintains the relationship for the purposes of grant of retiral benefits, in view of the past service. Similarly, acceptance of resignation is dependent upon discretion of the employer whereas retirement is completion of service in terms of regulations/rules framed by the bank. Resignation can be tendered irrespective of the length of service whereas in the case of voluntary retirement, the employee has to complete qualifying service for retiral benefits.”

16. In the above mentioned judgment, this Court has also held that there are different yardsticks and criteria for submitting the resignation, vis-à-vis voluntary retirement and exceptions thereof. In that context, the scope of Regulation 22 of Regulations 1995 was also considered and the Court held as follows:

9.In our view, Regulation 22 provides for disqualification of employees who have resigned from service and for those who have been dismissed or removed from service. Hence, we do not find any merit in the arguments advanced on behalf of the respondent that Regulation 22 makes an arbitrary

and unreasonable classification repugnant to Article 14 of the Constitution by keeping out such class of employees. The view we have taken is supported by the judgment of this Court in the case of **Reserve Bank of India v. Cecil Dennis Solomon** (2004) 9 SCC 461. Before concluding we may state that Clause 22 is not in the nature of penalty as alleged. It only disentitles an employee who has resigned from service from becoming a member of the Fund. Such employees have received their retiral benefits earlier. The pension scheme, as stated above, only provides for a second retiral benefit. Hence there is no question of penalty being imposed on such employees as alleged. The pension scheme only provides for an avenue for investment to retirees. They are provided avenue to put in their savings and as a term or condition which is more in the nature of an eligibility criteria the scheme disentitles such category of employees out of it.”

17. We may indicate that in **Sanwar Mal** (supra), the employee, who was working on Class III post, resigned from the service of UCO Bank on 25.2.1988 after giving one month's notice and also accepted his provident fund without protest. On coming into force of the Regulations 1995, Sanwar Mal opted for pension scheme. Since Sanwar Mal had resigned in the year 1988, UCO Bank declined its option for admitting him as a member of the fund. This Court, as already indicated, after referring to the various provisions of the Regulations 1995 and after examining the meaning of the expressions 'resignation' and 'retirement', held that since Regulation 22 provided for disqualification of employees who had resigned, such employees could not claim membership of the fund.
18. Learned counsel appearing for the appellants have placed heavy reliance on **Sheelkumar Jain** (supra) and submitted that in the light of that judgment, the decision rendered in **Sanwar Mal** (supra) requires reconsideration. We find it difficult to accept the contention raised by the learned counsel appearing for the appellants.
19. We may point out in **Sheelkumar Jain** (supra) that this Court was dealing with an insurance scheme and not the pension scheme, which is applicable in the banking sector. The provisions of both the scheme and the Regulation are not pari materia. In **Sheelkumar Jain** case (supra), while referring to Para 5, this Court came to the conclusion that the same does not make distinction between 'resignation' and 'voluntary retirement' and it only provides that an employee who wants to leave or discontinue his service amounts to 'resignation' or 'voluntary retirement'. Whereas, Regulation 20(2) of the Canara Bank (Officers) Service Regulations 1979 applicable to banks, had specifically referred to the words 'resignation', unlike Para 5 of the Insurance Rules. Further, it is also to be noted that, in that judgment, this Court in Para 30 held that the Court will have to construe the statutory provisions in each case to find out whether the termination of service of an employee was a termination by way of resignation or a termination by way of voluntary retirement.
20. The appellants, when tendered their letters of resignation, were governed by the

1979 Regulations. Regulation 20(2) of the 1979 Regulations dealt with resignation from service and they tendered their resignation in the light of that provision. We are of the view that the appellants have failed to show any pre-existing rights in their favour either in the statutory settlement/joint note dated 29.10.1993 or under the 1995 Regulations. The appellants had resigned from service prior to 1-11-1993 and, therefore, were not covered by the statutory settlement, joint note dated 29.10.1993 and the 1995 Regulations. They could not establish any pre-existing legal, statutory or fundamental rights in their favour to claim the benefit of the 1995 Regulations. Consequently, the reliance placed by the appellants either on Regulation 29 or Regulation 22 in support of their contentions, cannot be accepted, since they are not covered by the scheme of pension introduced by the banks with effect from 1-11-1993.”

The ratio laid down in the above decision squarely applicable to the facts of the case as para materia provisions are dealt with by the Apex Court and facts in the present case are similar to the facts in above decision.

16. Learned counsel for the respondents vehemently contends that denial of pensionary benefits under the Regulations framed by the petitioner Bank in the year 1995 is violative of Articles 14, 16(1) and 21 of the Constitution of India. In support of his contention, he relied on the judgment of Karnataka High Court in **Canara Bank, Head Office, J.C. v. B.M.Ramachandra and Others, dated 30.05.1997 [1999 (4) KarLJ 628]**, wherein it is observed as follows:

“20.A perusal of the draft Pension Regulations of 1993, the final Pension Regulations of 1995, the Reserve Bank of India Pension Regulations, 1990, and the Life Insurance Corporation of India (Employees) Pension Rules, 1995, would show that all such Regulations and rules are the result of demand for grant of pension to the employees of the banking industry including those who had retired before the enforcement of those Rules. It also appears that the regulations or the rules have been framed on the basis of similar model rules and regulations apparently prepared in consequence of statutory settlement arrived at between the employer and the employee of the banking industry. The appellants are, therefore, not justified in holding that the respondent-retirees were not entitled to the grant of pension under the Pension Regulations of 1995.”

In the instant case on hand, the respondents have not voluntarily retired from service, but submitted resignations before the commencement of Pension Scheme. Whereas in the aforesaid decision, the respondents-employees of the Bank have voluntarily retired from service and the said Pension Scheme is available then. The aforesaid judgment was delivered in different context. Therefore, the said decision is not applicable to the case on hand.

17. Learned counsel for the respondents had also placed his reliance in the

judgment of Hon'ble Apex Court in **Sheelkumar v. New India Assurance Co.**, in Civil Appeal No.6013 of 2011, dated 28.07.2011 arising out of S.L.P.(C) No.3777 of 2007, wherein the appellant has served a letter dated 16.09.1991 on the New India Assurance Co. Ltd.-1st respondent therein stating that he would like to resign from his post and requesting him to treat the letter as three months' notice and to relieve him from his services. The said letter has been accepted by treating the same as resignation and he was relieved from his services on 16.12.1991. Thereafter, the General Insurance (Employees') Pension Scheme, 1995 was made by the Central Government in exercise of its powers under Section 17-A of the Act. On 20.10.1995, the appellant submitted application opting for the said Pension Scheme, but the 1st respondent intimated the appellant by letter dated 25.10.1995 stating that the Pension Scheme, 1995 was not applicable to those who have resigned from the respondent No.1 company, since the appellant resigned, he is not entitled for the said scheme. While allowing the appeal, the Hon'ble Supreme Court held as follows:

“13. The aforesaid authorities would show that the Court will have to construe the statutory provisions in each case to find out whether the termination of service of an employee was a termination by way of resignation or a termination by way of voluntary retirement and while construing the statutory provisions, the Court will have to keep in mind the purposes of the statutory provisions. The general purpose of the Pension Scheme, 1995, read as a whole, is to grant pensionary benefits to employees, who had rendered service in the Insurance Companies and had retired after putting in the qualifying service in the Insurance Companies. Clauses 22 and 30 of the Pension Scheme, 1995 cannot be so construed as to deprive of an employee of an Insurance Company, such as the appellant, who had put in the qualifying service for pension and who had voluntarily given up his service after serving 90 days notice in accordance with sub-clause (1) of Clause 5 of the Scheme, 1976 and after his notice was accepted by the appointing authority.”

In the above decision, it was held that the appellant voluntarily retired from service but not resigned. It is to be seen in the instant case that the respondents have resigned from their service but not sought for voluntary retirement. It is not the case of the respondents that they have made application seeking voluntary retirement. Therefore, the said decision has no

application to the facts of the case as it was rendered in different context.

18. Learned counsel for the respondents has also placed reliance in 1) judgment of Karnataka High Court in W.P.No.7245 of 2011 and batch dated 30.08.2012; 2) judgment of this Court in 12453 of 2001, dated 28.08.2012 and Judgment of a Division Bench of this Court in W.A.No.317 of 2013, dated 24.09.2013; 4) judgment of Hon'ble Supreme Court in **Bank of India v. Indu Rajagopalan and others, dated 05.04.2000 [2001 (3) L.L.N.730]**. However, those judgments have been rendered in different contextual back ground and more so, the judgment rendered by Apex Court in **M.R.Prabhakar and others v. Canara Bank and others(supra)** is direct on the issue since identical provisions were dealt with.

In view of the law laid down by the Hon'ble Supreme Court in **M.R.Prabhakar and others v. Canara Bank and others(supra)** and also in view of the facts and circumstances of the case, all the Writ Appeals are allowed. Consequently, the writ petitions filed by these respondents are dismissed.

As the Writ Appeals are allowed and Writ Petitions filed by the respondents are dismissed, the question of violation of orders passed by this Court does not arise. Accordingly, all the Contempt Cases are dismissed.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these Writ Appeals and Contempt Cases, shall stand closed.

R. SUBHASH REDDY, J

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