

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.713 OF 2015

Shankar V. Talpe	]	
Age about 64 yrs., Occupation Retired	]	
Residing at Vrindavan Co-Op. Hsg. Soc. Ltd.,	]	
Room No.656, Vikhroli Parksite, Raigad Vibhag,	]	
Vikhroli (W) Mumbai No.400 082.	]	... Petitioner

Versus

1. The Union of India	]	
through Ministry of Finance through	]	
it's Secretary, New Delhi.	]	
	]	
2. The Indian Bank	]	
Having it's Head Office Human Resource Dept.	]	
Pension Cell, 66 Rajaji Salai, Chennai – 600 001.	]	
	]	
3. The General Manger (HRM)	]	
Indian Bank, Head Office, Human Resource Dept.	]	
Pension Cell, 66 Rajaji Salai, Chennai – 600 001.	]	
	]	
4. The Assistant General Manager	]	
Zonal Office, HRM Cell, Indian Bank, Mumbai.	]	
	]	
5. The Branch Manager,	]	
Indian Bank, having his office at Smeet Apartment,	]	
Upashray Lane, Ghatkopar East, Mumbai No.77.	]	.. Respondents

.....

Mr. Gautam Kanchanpurkar, for the Petitioner.

Mr. Chunawala, a/w. Mr. A.R. Varma, for Respondent No.1.

Mr. Nitin Nikam, for Respondent Nos. 2 to 5.

.....

**CORAM : ANOOP V. MOHTA &
S.C.GUPTA, JJ.**

7 MARCH 2016.

Oral Judgment (Per Anoop V. Mohta, J.):

. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. We are inclined to dispose of the present writ petition at the stage of admission itself, as we have noted, after going through the documents placed on record and submissions made by the learned Counsel appearing for the parties, that for opting the family pension scheme the Petitioner was required to submit the option on 30 August 2010. The Petitioner appears to have submitted such option before the stipulated date. There is a letter on record to show that Respondent No.5 had already intimated the same to Respondent No.3 on 30 August 2010 also referring to the contribution made towards the pension fund by the Petitioner, along with other optees, who joined the pension scheme in terms of the Bipartite settlement dated 27 April 2010. There is an acknowledgement on record of the branch office of Respondents dated 30 August 2010 of the same. There are further documents on record to show that along with others the requisite contributions of the Petitioner were deducted and sent to the circle office.

3. We have also noted that the Respondents by communication dated 3 November 2010 also acknowledged the Petitioner's option for the

scheme referring to the joint note dated 27 April 2010, whereby it is further acknowledged that the Petitioner had tendered the option form to become a member of the bank's pension scheme. The submission of learned Counsel appearing for the Respondents that the Petitioner never opted and/or never submitted the option for family pension scheme within the prescribed period, in our view, is unacceptable. We find that the Petitioner throughout made representations that he had already opted for the pension scheme along with others and, therefore, claimed the entitlement for all the benefits, as per the scheme. Learned Counsel appearing for the Respondents is unable to justify the earlier correspondences referred to above, whereby option was given by the Petitioner along with others, in time.

4. Therefore, taking an overall view of the matter and as sufficient case is made out, we see no reason to deny the claim of the Petitioner based upon the above admitted position on record. We see no reason to reject the claim solely on the stated ground of delay in filing this petition as the cause of action is continuing one. Therefore, the Petitioner is entitled for the reliefs claimed in terms of prayer clauses (a) and (b). Rule is made absolute accordingly. No costs.

(S.C.Gupte, J.)

(Anoop V. Mohta, J.)