IN THE HIGH COURT OF JUDICATURE AT BOMBAY, AURANGABAD BENCH, AURANGABAD

WRIT PETITION NO. 1605 OF 2013

Jayant Banduji Chavan ...Petitioner

VERSUS

The Union of India & ors. ...Respondents

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Shri K.J.Suryawanshi, advocate for petitioner
Shri S.B.Deshpande, A.S.G. for respondent nos. 1 & 2
Shri Alok Sharma, standing counsel for Resp. no.3
Shri K.F.Shingare, advocate for Resp. No. 4

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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 10th January, 2017

O R D E R :-

Mr. Suryawanshi, learned counsel for the petitioner submits that the petitioner on 16.12.1970 was appointed on the post of Clerk in Aurangabad District A.R.M.D. Bank Limited. The petitioner on attaining the age of superannuation retired with effect from 31.1.2006. The petitioner became member of the Employees Provident Fund Scheme, 1971 and contributed the fund towards pension since 1971. The employer also deposited its contribution since 1971. The Employees Provident Fund Scheme came into operation from 1995 and the membership of the petitioner was automatically continued. The learned counsel submits that respondent no.3 sanctioned pension of Rs.1391/- to the petitioner. The said pension was calculated assuming the service of the petitioner from 1995 only. Respondent no.3 did not consider the service of the petitioner since 1971.

2 The learned counsel relies on Section 10 of the Employees Pension Scheme 1995 and submits that the pensionable service of the member has to be determined with reference to contributions received on his behalf in the employees provident fund, and those who have completed 20 years or more pensionable service, 2 years added weightage has to be given. Learned counsel relying upon Section 2(xv) submits that pensionable service means the service rendered by the members for

which contributions have been received. According to the learned counsel, the pensionable service is considered of 10 years only by the respondents in case of petitioner. The Pension Payment Order makes this position abundantly clear. The learned counsel further submits that even the Committee was constituted for suggesting the reforms and the Committee recommended that the minimum pension payable should be Rs.3,000/-.

3 Shri Sharma, learned counsel for respondent no.3 submits that the past service rendered by the petitioner from 1971 has been calculated. The service from 1971 to 1995 is considered as past service and the service from 1995 till the date of superannuation is considered as actual service. Both the services are considered while computing the pension amount.

4 The learned counsel refers to the affidavit-in-reply filed and the calculations given thereto.

5 We have considered the submissions canvassed by the learned counsel for the respective parties. There cannot be any dispute with the proposition put forth by the petitioner that even the past service rendered prior to 1995 has to be considered while computing the pension. The petitioner has rendered service from 16.12.1970. In the affidavit-in-reply filed, the details are given as to how the pension is computed. The service from 1970 has to be considered. The weightage of 2.720 is also given and thereafter from 1995 till the date of superannuation the actual service is considered. A formula is laid down for calculating pension. For past service rendered from 1970 till 1995 an amount of Rs. 462/- has been arrived at and for actual service an amount of Rs.929/- has been arrived at as payable. The total of past service and actual service comes to Rs.1391/-. Taking 10 per cent ROC of Rs.139/-, Rs.1252/- is made payable to the petitioner.

Considering the calculations by the respondents, it is manifest that past service from 1970 has been considered by the respondents while computing pension.

As far as reforms suggested by respondent no.1, it is for the Union to accept or otherwise. Those are just the suggestions of the Committee and even if it is accepted that would be prospective, as it is suggested that the contribution should be increased to 33 per cent instead of present 1.16 per cent.

Considering the above, no case for interference. Writ Petition is disposed of. No costs.

(K.L.WADANE, J.) (S.V.GANGAPURWALA, J.)