

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 29.11.2017

Delivered on: 12-12-2017

Coram

The Honourable **Mr.Justice V.PARTHIBAN**

W.P. No.32427 of 2012

K.Sundararajan

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Petitioner

versus

1. State Bank of India,
represented by its Chairman,
State Bank Bhavan,
Mumbai-400 021.

2. The Chief General Manager,
State Bank of India,
Local Head Office,
Nungambakkam,
Chennai-600 006.

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Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in HR/Law 1758, quash the order dated 14.8.2012 made therein and consequently direct the respondent to pay to the petitioner eligible pension under the State Bank of India Pension Rules including all arrears of pension.

For Petitioner : Mr.T.M.Hariharan

For Respondent : Mr.P.Sukumar

ORDER

The present writ petition has been filed, seeking for the following relief:

"Issue Writ Certiorarified Mandamus, to call for the records of the 2nd respondent in HR/Law 1758, quash the order dated 14.8.2012 made therein and consequently direct the respondent to pay to the petitioner eligible pension under the State Bank of India Pension Rules including all arrears of pension."

2. The petitioner has joined the respondent bank as a Clerk on 22.11.1996. He was 21 years at the time when he joined the service of the bank. After his confirmation in the post, he was admitted to the Pension Fund as per the State Bank of India Employees Pension Fund Rules, 1955 (in short, 'the Rules'). The petitioner, after working 17 years, had resigned the job for personal reasons on 12.3.1984. However, after his resignation, the petitioner was not paid pension although he was a member of the Pension Fund for the reason that he had not rendered

minimum qualifying service of 25 years. It appears that thereafter, minimum qualifying service of 25 years was reduced to 20 years. But the petitioner was still not eligible to get pension since admittedly, he had rendered only 17 years of service. In 1997, the Pension Rules applicable to the respondent bank came to be amended and brought to effect from 01.11.1993. One of the amendments was, age of entry into service, which was enhanced from 38 years to 48 years for admission into pension scheme and the qualifying service was reduced from 20 years to 10 years. However, the benefit of the amendment was extended to the employees who retired on or after 01.11.1993. In view of the above said amendment, the petitioner seemed to have represented to the second respondent for extension of the pensionable benefits to him. Since no reply was forthcoming for his representation, the petitioner has approached this Court in W.P.No.29608 of 2011 and this Court has disposed of the same on 22.12.2011 directing the respondents therein to consider and pass orders on the representation of the petitioner. In pursuance of the direction, the second respondent has passed orders on 14.08.2007

rejecting the request of the petitioner. The said rejection order is impugned in the present writ petition.

3. The learned counsel Shri T.M.Hariharan, appearing for the petitioner, would strenuously contend that the cut of date prescribed by the respondents as 01.11.1993 was arbitrary, unjust and unreasonable classification and therefore, the rejection on that basis by the authority, is invalid and liable to be interfered with.

4. The learned counsel would draw the attention of this Court to a decision rendered by a Division Bench of this Court reported in **"N.Easwaran and another versus State Bank of India (rep. by its Chairman), Bombay and another"** (2007) 4 LLN 469, wherein, the Division Bench has considered the identical plea of the employee of the respondent bank and held that the cut of date prescribed namely, 1.11.1993 has no nexus to the object to be achieved by the statute and the bank fails to satisfy twin tests of classification founded on intelligible differentia distinguishing between the set of persons grouped together from

those who have been left out. The Division Bench has finally set aside the order passed by the learned single Judge disallowing the identical claim and directed the bank to pay pensionary benefits to those employees who retired prior to 1.11.1993. According to the learned counsel, the issue is squarely covered by the orders passed by the learned Division Bench and therefore, he would pray for allowing the writ petition.

5. Upon notice, Mr.P.Sukumar, learned counsel entered appearance for respondents and filed a detailed counter affidavit.

6. Per contra, the learned counsel appearing for the bank would resist the claim of the petitioner with equal vehemence and submit that the petitioner having rendered 17 years of service as on 12.3.1984, the effective date of his resignation cannot claim for pensionary benefits particularly under the amended Pension Rules which came into effect much after the resignation of the petitioner. At the time of his retirement, the qualifying years of service for pension was 25 years which was admittedly not the case of the petitioner and therefore, he was rightly denied the

pensionary benefits.

7. As regards the order of the learned Division Bench is concerned, the learned counsel for the bank would submit that the Division Bench order was taken on appeal before the Hon'ble Supreme Court of India in Civil Appeal Nos.4497 to 4498 of 2009 wherein, the Hon'ble Supreme Court of India, set aside the common judgment of the Division Bench and restored the order of the learned single Judge discountenancing similar claim made by the employees of the respondent bank.

8. At this, the learned counsel for the petitioner attempted to canvass a point stating that the order passed by the Hon'ble Supreme Court was on the age criteria and not dealt with any of the issues that were dealt with by the learned Division Bench of this Court. However, such argument has to be brushed aside in the first place for the simple reason that eventually the Hon'ble Supreme Court of India has set aside the order passed by the Division Bench and restored the order passed by the learned single Judge.

9. In view of the same, it is not open to the learned counsel for the petitioner to rely upon the order passed by the Division Bench of this Court any more. Even otherwise, it is to be seen that the petitioner having retired much earlier to coming into force the amended Pension Rules 1993, cannot claim as a matter of right that he should also be extended such benefit. Although the issue has been elaborately dealt with by the learned Division Bench of this Court in favour of the employee concerned, nevertheless, eventually, the Hon'ble Supreme Court set aside the order of the Division Bench by its judgment 17.7.2009 restoring the order of the learned single Judge.

10. In the said circumstances, this Court is bound by the decision of the Hon'ble Supreme Court and hence, it has to necessarily hold that the writ petition cannot be maintained.

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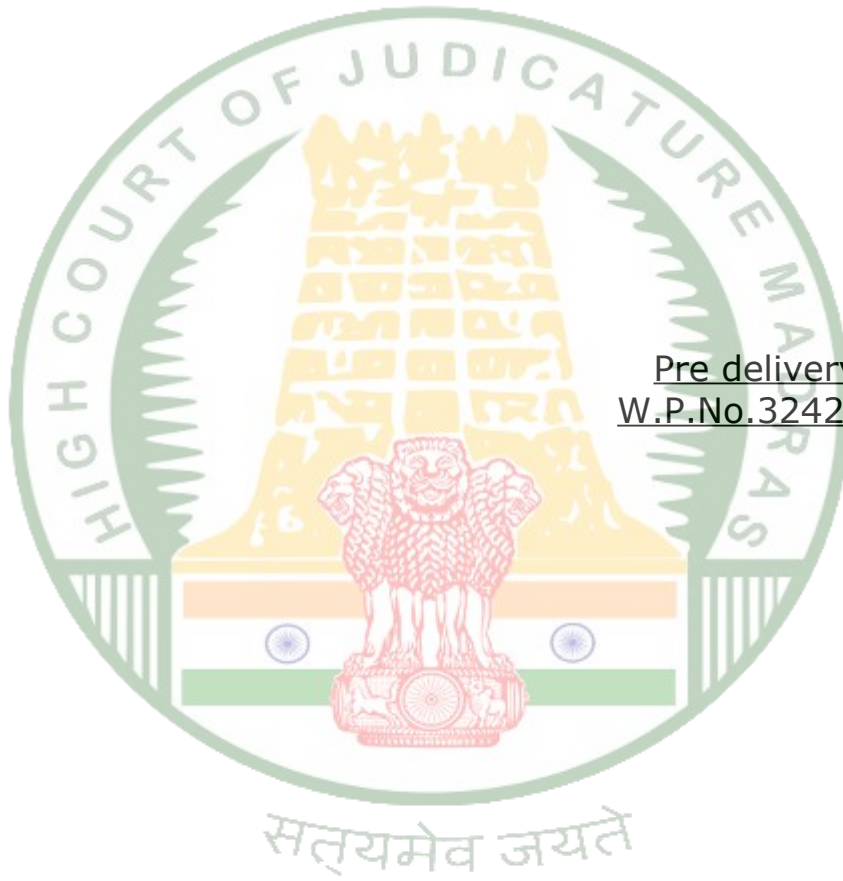
11. In the light of the above discussion, the Writ Petition fails and it is dismissed. No costs.

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12-12-2017

V.PARTHIBAN, J.

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Pre delivery Order in
W.P.No.32427 of 2012

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