

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.7269 of 2013

Vijaya Krishnan

... Petitioner

Vs.

1.Indian Overseas Bank,
Rep. By its Chairman & Managing Director,
Head Office, No.762, Anna Salai,
Chennai - 600 002.

2.The General Manager,
Indian Overseas Bank,
Personnel Department,
Central Office, Anna Salai,
Chennai - 600 002.

3.The Senior Manager, I Line,
Indian Overseas Bank,
Pension Cell, Central Office,
Anna Salai, Chennai - 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent comprised in his letter dated 14.06.2007 bearing No.583/07 and quash the same and consequently direct the respondent to grant pension benefits of the petitioner from the date of her relief viz., from 01.04.1991.

For Petitioner : Mr.R.Parthasarathy

For Respondents : Mr.K.Srinivasamurthy

ORDER

The order of the rejection dated 14.06.2007, declining the request of the petitioner for grant of pensionary benefits from the year 1991, is under challenge in the present writ petition.

2.The writ petitioner was recruited as a Clerk in the respondent Bank. She was initially appointed in New Delhi and subsequently, got transferred to Chennai. The writ petitioner submitted a letter on 02.01.1991, stating that she was suffering from severe back pain from the month of March 1990 and inspite of regular treatment, rest etc., there was no improvement, and therefore, she was unable to continue the

services. The petitioner in clear terms had stated in her letter, that she may be permitted to retire voluntarily on health grounds, however, if such a retirement is not permissible as per the rules, the letter submitted by the petitioner may be treated as a letter of resignation from the Bank services.

3.The petitioner in her letter dated 02.01.1991 had categorically stated that, if the rules permit, she may be permitted to retire voluntarily, and if not, she may be permitted to resign from the Bank services. The said letter was considered by the respondent Bank and an order was passed by the respondent Bank on 01.04.1991 as follows:

"With reference to your letter of resignation dated 02.01.1991 we wish to advise that the Bank has accepted your letter of resignation vide their memo no.PAD/177/21 dated 09.03.1991.

Accordingly you are relieved from the Bank's services as at the close of business hours today. We wish to place on record your Excellent Services to the Bank and wish you Best of Luck in your life."

4.The learned counsel for the writ petitioner states that the writ petitioner is eligible for voluntary retirement and therefore, the respondents ought not to have accepted her resignation and the respondents ought to have allowed the writ petitioner to go on voluntary retirement, enabling her to get her pension and the pensionary benefits. Contrary to the rules, the respondents had passed an order in proceeding dated 01.04.1991, allowing the writ petitioner to go on resignation.

5.The learned counsel for the writ petitioner further stated that the petitioner has made a representation, citing the scheme of voluntary retirement, as applicable to the employees of the respondent Bank and urged the Bank to grant pensionary benefits to her, since she had served for about 21 years in the respondent Bank.

6.The learned counsel for the petitioner is of an opinion that, though an employee has submitted an application for resignation on health grounds, he/she may be allowed to retire voluntarily. However, inadvertently, the petitioner had mentioned in her letter by stating that, if rules do not permit, then, she may be allowed to go on resignation. Thus, the respondents ought to have allowed the writ petitioner to retire under Voluntary Retirement Scheme. Contrary to the rules which were in force, the writ petitioner was allowed to go on resignation.

7.The learned counsel on behalf of the respondents

disputed the contentions by stating that the writ petitioner, knowing fully well the rules of the Voluntary Retirement Scheme and the effect of resignation, had submitted her letter on 02.01.1991. The respondent immediately considered the said letter submitted by the writ petitioner and had passed an order on 01.04.1991, relieving the writ petitioner from service on the ground of resignation. The said order of acceptance of resignation had not been challenged by the writ petitioner for the past about 27 years. The order of acceptance of resignation is still valid and in force. Therefore, now after a lapse of so many years, the writ petitioner cannot move the present writ petition for the purpose of grant of pensionary benefits to her, by treating her letter of resignation as a letter for voluntary retirement.

8.It is further contended that the writ petitioner was not entitled for the benefits covered under the Voluntary Retirement Scheme, in view of the fact that, at the time of submission of the letter by the writ petitioner on 02.01.1991, she was not eligible for voluntary retirement. Therefore, the management had accepted her resignation and accordingly, had passed an order in proceeding dated 01.04.1991. Thus, there was no infirmity in respect of the acceptance of resignation and also, the subsequent letter sent by the writ petitioner is purely after thought and the same cannot be treated for the purpose of granting pensionary benefits to the writ petitioner.

9.In support of the contention, the learned counsel for the respondents cited the judgment of the Hon'ble Supreme Court of India in the case of M.R.Prabhakar v. Canara Bank [(2012) 9 SCC 671] and in Para No. 20 of the said judgment, the Apex Court has held as follows:

"20. The appellants, when tendered their letters of resignation, were governed by the Regulations 1979. Regulation 20(2) of Regulations 1979 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 Regulations 1995. 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 Regulations 1995. They could not establish any pre-existing legal, statutory or fundamental rights in their favour to claim the benefit of Regulations 1995. 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."

10. Resignation amounts to forfeiture of past services. This is the rule in force in respect of the nationalised Banks. Unless an employee is allowed to retire from service voluntarily, such an employee is not entitled for the pensionary benefits. For an employee to voluntarily retire from service, certain conditions are prescribed in the rules. However, for resignation, no such conditions are prescribed. Thus, the scheme of voluntary retirement can be extended to the petitioner, only if the authorities had passed an order to that effect, accepting such a request of the writ petitioner. However, in the present case on hand, the letter submitted by the writ petitioner was treated as a letter of resignation, in view of the fact that, as per the rules, the writ petitioner was not eligible to go on voluntary retirement at the relevant point of time. Therefore, the management passed an order in proceeding dated 01.04.1991, relieving the writ petitioner on resignation, by accepting her letter of resignation, with all terminal benefits applicable for a resignee, in favour of the writ petitioner.

11. It is pertinent to note that the proceeding dated 01.04.1991 was acceptable to the writ petitioner at the relevant point of time and therefore, she had not taken any action against the said proceedings. However, after a lapse of nine years, she had made a representation to the management stating that, she is eligible to avail the benefits under Voluntary Retirement Scheme. The present writ petition is filed on 21.03.2013, i.e. after a lapse of 22 years from the date of acceptance of resignation by the respondent management.

12. Thus, the claim of the writ petitioner is highly belated and the writ petition is liable to be rejected on the ground of laches, in view of the fact that the letter of resignation submitted by the writ petitioner was accepted and she was relieved from service on 01.04.1991. Now, after a lapse of 22 years, the question of considering her claim for availing the benefits under Voluntary Retirement Scheme is impermissible and the writ petitioner has not made out any acceptable legal grounds for the purpose of considering the relief as sought for in the present writ petition.

13. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs.
mkn/ssr

Sd/-
Assistant Registrar (CS IX)

//True Copy//

To

1.The Chairman & Managing Director,
Indian Overseas Bank,
Head Office, No.762, Anna Salai,
Chennai - 600 002.

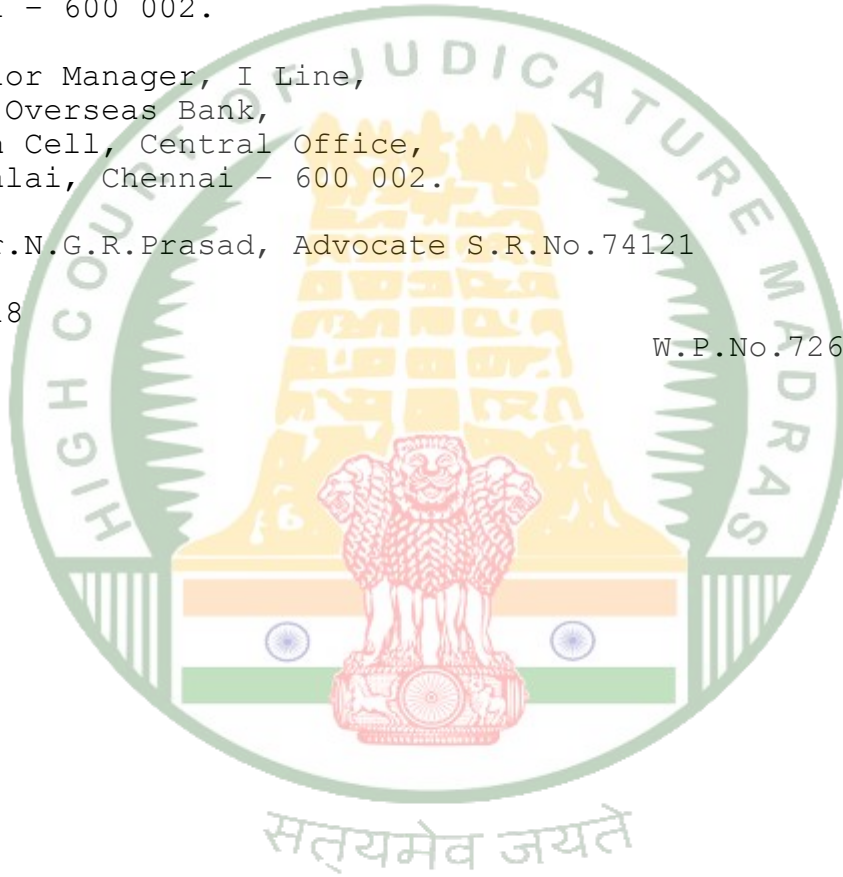
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3.The Senior Manager, I Line,
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Anna Salai, Chennai - 600 002.

+1cc to Mr.N.G.R.Prasad, Advocate S.R.No.74121

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