

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.693 of 2018

K.Sundararajan

... Appellant

-vs-

1.State Bank of India,
rep.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.

... Respondents

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.32427 of 2012 dated 12.12.2017.

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to calling for the records of the 2nd respondent in HR/LAW 1758 and to quash the order dated 14.8.2012 made therein and consequently to direct the respondent to pay to the petitioner eligible pension under the State Bank of India Pension Rules including all arrear of pension. सत्यमेव जयते

For Appellant :: Mr.T.M.Hariharan

For Respondents:: Mr.K.Chandrasekaran

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The order passed by the second respondent dated 14.08.2007 rejecting the request of the appellant for extending pensionary benefits to him, was challenged by the appellant before this Court in W.P.No.32427 of 2012 on the ground that the cut-off date prescribed by the respondents as 01.11.1993 is arbitrary,

unjust and unreasonable classification. It was also argued before the writ Court that the issue is squarely covered by a Division Bench judgment of this Court in N.Easwaran and another v. State Bank of India (rep.by its Chairman), Bombay and another, reported in (2007) 4 LLN 469.

2.After considering the facts and circumstances of the case, the learned single Judge dismissed the writ petition by order dated 12.12.2017. Challenging the same, the present appeal has been filed.

3.The learned counsel for the appellant has submitted that the learned single Judge ought to have seen that the appellant was over 21 years of age when he joined the service of the respondent Bank and he was admitted to the Pension Fund on confirmation. Further, the appellant was covered under the Pension Rules as he was less than 38 years of age at the time of entry into the services of the respondent Bank. It is also submitted that when the Pension Rules came to be amended in 1997, reducing the qualifying service for grant of pension from 20 years to 10 years, the appellant who had completed 17 years of service at the time of his resignation is entitled to be granted pension.

4.The learned counsel for the respondent-Bank has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order dismissing the case of the appellant and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The learned counsel for the respondent-Bank has referred to Regulation 22(a) of the Pension Regulations 2014 of the respondent Bank, as per which, a member shall be entitled to pension under these regulations on retiring from the Bank's service after having completed twenty years' pensionable service provided that he has attained the age of fifty years or if he is in the service of the Bank on or after 1st November 1993, after having completed ten years pensionable service provided that he has attained the age of fifty eight years or if he is in the service of the Bank on or after 22nd May, 1998, after having completed ten years pensionable service provided that he has attained the age of sixty years. Thus, what has been canvassed by the learned counsel for the respondent Bank is that the appellant does not fall in any of the categories mentioned in Regulation 22(a) of the Pension Regulations 2014 of the respondent Bank and hence he is not eligible for pensionary benefit.

7.The learned single Judge has held that the appellant cannot claim for pensionary benefits particularly under the

amended Pension Rules which came into effect much after the resignation of the appellant. It also appears that the Division Bench judgment relied on by the appellant was set aside by the Hon'ble Supreme Court by its judgment dated 17.07.2007 in Civil Appeal Nos.4497 to 4498 of 2009. In these circumstances, the learned single Judge has held that it is not open to the appellant to rely upon the Division Bench judgment of this Court in N.Easwaran and another v. State Bank of India (rep.by its Chairman), Bombay and another (cited supra), any more.

8. Even though the learned single Judge has held that the appellant cannot claim for pensionary benefits particularly under the amended Pension Rules which came into effect much after the resignation of the appellant and that the Division Bench judgment relied upon by the learned counsel for the appellant has been set aside by the Hon'ble Supreme Court, what we find is that after rendering 17 years of service, the appellant resigned from the job for personal reasons. Neither he sought for voluntary retirement nor he was superannuated. Hence the minimum services for pension, cannot be made applicable to the case of the appellant. On this ground, we dismiss the writ appeal holding that the appellant is not entitled for pensionary benefit. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Chairman,
State Bank of India,
State Bank Bhavan,
Mumbai-400 021.

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

+1cc to Mr.T.M.Hariharan, Advocate, S.R.No. 57120
+1cc to MR.K.Chandrasekaran, Advocate, SR.No.57335

W.A.No.693 of 2018

KS (CO)
GN(18/09/2018)