IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7383 of 2009

M.R.Arunachalam .. Petitioner

-vs-

The Management
Indian Overseas Bank
rep by its General Manager
Personnel Administration Department
Indian Overseas Bank
Central Office
No.762, Anna Salai
Chennai 600 002 .. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the respondent in his order IRD/184/62/2008-09 dated 01.12.2008 and quash the same and consequently direct the respondent to sanction pension and other benefits with interest to the petitioner.

For Petitioner:: Mr.R.Rengaramanujam

For Respondent:: Mr.K.Srinivasamurthy

ORDER

This writ petition is directed against the impugned order dated 1.12.2008, in and by which the request of the petitioner for payment of pension from the date of his retirement, namely, 31.5.2001 was refused, on the ground that although the petitioner submitted his first option in 1995, he failed to submit the authorisation letter in response to the Permanent Circular No.EST 112/1995-96 dated 1.11.95, therefore, the petitioner was treated as PF optee only.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that the petitioner, while serving as Scale II Officer, due to cardiac problem, underwent angioplasty surgery in the month of August, 2000. Only in view of his health condition, he had opted for voluntary retirement scheme in the month of November, 2000,

that was also accepted by the respondent Management and consequently, the petitioner was permitted to retire under the Voluntary Retirement Scheme. Accordingly, he was also relieved from service with effect from 31.5.2001, resultantly all his retiral benefits were also settled by the respondent Management, except pension. Since a pension scheme was announced by the respondent Bank in the year 1994, the petitioner opted for the said pension scheme while working in Rajagiri branch office of the bank at Thanjavur district. His request was also forwarded to the central office by the Branch Manager. Again the authorisation to transfer his PF contribution along with interest accrued thereon to the pension fund were also called for in the year 1995, but was not forwarded to the petitioner. Therefore, the petitioner was unable to reply for the same in the year 1995. But the central office, after verification of the file, found that though the petitioner had exercised his option for the pension scheme in the year 1995, had not given authorisation to transfer the PF fund to the pension fund in the prescribed Form-III. Hence, by letter dated 1.7.98, the central office had called for the authorisation for transfer of his PF account to the Indian Overseas Bank Employees Pension Fund Scheme. Immediately, the petitioner also furnished his authorisation in the prescribed format in Annexure III as called for by the central office letter dated 1.7.98 as per his letter dated 3.8.98. When the petitioner has complied with all the requirements to come under the Indian Overseas Bank Employees Pension Fund Scheme, to his shock and surprise, the entire PF amount with interest standing to his credit was sent to the Chidambaram branch, where he had last served with instructions to credit the amount into his account by letter dated 6.6.2001. Hence the petitioner objected for the credit of the PF into his account by letter dated 18.6.2001. Subsequently, the entire PF amount of Rs.3,97,495/- was credited into his account in September, 2001. The learned counsel for the petitioner also submitted that although the petitioner is entitled to draw the amount contributed by him under the pension scheme, he did not withdraw any amount and has deposited the entire amount of Rs.3,97,495/- in fixed deposit in the same branch. Thereafter, he made several representations to sanction pension by his letters dated 16.8.2001, 20.6.2001 and 29.10.2001. But even then, no action was taken. Therefore, he sent a legal notice on 3.6.2002 and finally filed W.P.No.3069 of 2003 before this Court praying for a direction to consider his representation daed 29.10.2001 for pension. This Court, by order dated 3.11.2008, directed the respondent herein to consider and dispose of his representation dated 29.10.2001 within a period of eight weeks. Pursuant to the said order, the impugned order has been passed stating that the petitioner had not submitted his authorisation letter in response to the Permanent Circular No.EST 112/1995-96 dated 1.11.95, hence, he was treated as PF optee only. Concluding his arguments, the learned counsel stated that when the petitioner has furnished his authorisation in the prescribed format in Annexure III as called for by the central office letter dated 1.7.98 as early as on 3.8.98, it is not just and fair on the part of the respondent to say in the impugned order that the petitioner had not submitted the authorisation letter in response to the Permanent Circular No.EST 112/1995-96 dated 1.11.95.

3. A counter affidavit has been filed by the respondent Bank. The learned counsel for the respondent submitted that when the respondent Bank sent a letter dated 1.7.98 to the petitioner asking the petitioner to fill up the authorisation letter in the prescribed format and submit the same before 10.8.98 in order to enable the provident fund lying to his credit to be transferred to the pension trust, the petitioner failed to submit the form to the central office of the Bank, although the petitioner claims to have mailed the same on 3.8.98 through the Chidambaram branch of the Bank where he was working at that time. In support of the same, the petitioner filed a document at page 13. But, had it been forwarded by the branch to the pension section, the despatch reference number would have been given in that letter. If the petitioner had really sent the duly filled in form, then the respondent would have immediately acted upon the same and transferred the proportionate provident fund to the pension fund. But no such form was received by the respondent Bank. Therefore, the petitioner continued to be covered by the provident fund trust and the same has been reflected in his records. Moreover, now the petitioner is not left without any pension as complained, because, pursuant to the demands made by the employees union/association, a settlement was also reached on 27.4.2010 between the bank and the employees organisation and based on the said settlement, a second option was also given to the employees to opt for pension. Based on the said settlement, the petitioner also submitted his option and the same were accepted and now the petitioner is drawing monthly pension. Therefore, the prayer of the petitioner to pay him pension from 2001 has become infructuous.

4. I also find merits in the said submissions. The reason being that when the petitioner claims that he had given his option in 1995, has not filed any proof to show that he submitted the authorisation letter in response to the Permanent Circular No.EST 112/1995-96 dated 1.11.95. In the affidavit filed by the petitioner, it is claimed that he furnished the authorisation letter in the prescribed form in Annexure III as called for by the central office

letter dated 1.7.98 as early as on 3.8.98. When no proof thereof has been produced before this Court nor before the respondent, that is the reason why the counter affidavit filed by the respondent also clearly shows that had the petitioner really given the authorisation letter to the Bank, the Bank in which the petitioner was working would have forwarded the same to the pension section and the despatch reference number would have been there in that letter. As the petitioner had not sent the duly filled in form, the respondent also was unable to process the petitioner's request for pension. However, he has been treated as PF optees only. In any event, since the petitioner's case has been covered by the subequent settlement dated 27.4.2010 that was arrived at between the petitioner and the employees' organisation pursuant to the demands made by the employees' union/association and based on the said settlement, the petitioner submitted his option and the same was also accepted and consequently, he is drawing the pension from the settlement dated 27.4.2010, nothing further survives for consideration. Therefore, the writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

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To

1. The General Manager
Indian Overseas Bank
Personnel Administration Department
Central Office
No.762, Anna Salai
Chennai 600 002

+1cc to Mr. R.Rengaramanujam, Advocate SR.No. 14346
+1cc to Mr.N.G.Prasad , Advocate SR.No. 13553
+1 CC TO GOVERNMENT PLEADER SR.NO. 12328

W.P.No.7383 of 2009

A.SK(08/03/2019)