

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2020

CORAM

THE HONOURABLE MR. **JUSTICE M.M.SUNDRESH**
and

THE HONOURABLE MR. **JUSTICE M.DHANDAPANI**

**Contempt Petition No.2594 of 2018
& Review Application No.260 of 2018**

Contempt Petition No.2594 of 2018

Dr.T.Ramasamy ... Petitioner

Vs.

J.Ganesan,
The Assistant General Manager,
Pension Cell, Personnel Administrative Department,
Indian Overseas Bank, Central Office,
No.763, Anna Salai, Chennai-600 002. ... Respondent

Review Application No.260 of 2018

- 1.The General Manager (Personnel),
Personnel Administration Department,
Indian Overseas Bank, Central Office,
763, Anna Salai, Chennai-600 002.
- 2.The Deputy General Manager,
Pension Cell, Personnel Administrative Department,
Indian Overseas Bank, Central Office,
763, Anna Salai, Chennai-600 002.
- 3.The Assistant General Manager,
Pension Cell, Personnel Administrative Department,
Indian Overseas Bank, Central Office,
763, Anna Salai, Chennai-600 002.
- 4.The Chief Manager,
Personnel Administrative Department,
Indian Overseas Bank,
Retires Grievances Central Office,
763, Anna Salai Chennai-600 002. ... Petitioners

Vs.

<https://hcservices.ecourts.gov.in/hcservices/>

Dr.T.Ramasamy

... Respondent

Contempt petition No.2594 of 2018 is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for wilful disobedience of the order of this Court dated 03.08.2018 made in W.A.No.1491 of 2018.

Review Application No.260 of 2018 is filed under Order 47 Rule I of C.P.C., to review the order passed by this Court dated 03.08.2018 made in W.A.No.1491 of 2018.

For Petitioner : Mr.K.J.Parthasarathy
in Cont P.No.2594
of 2018 & respondent
in Rev.A.No.260/2018

For Respondent in : Mr.Srinivasamoorthy
in Cont P.No.2594 of
2018 & petitioners in
Rev.A.No.260/2018

COMMON ORDER

(Order of the Court was made by M.M.Sundresh,J.)

As the contempt petition and the review application are pertaining to the very same order, we are disposing the same by a common order.

2. For the sake of brevity, the petitioners in review petition are taken as such and the petitioner in contempt petition is taken as respondent.

3. By an order dated 03.08.2018, the Division Bench of

single Judge with the direction to the third respondent therein to extend the appellant five years increase in calculating the qualifying service of 20 years in tune with the Indian Overseas Bank Pension Regulations Scheme. The following paragraph is apposite.

"10.The learned single judge has gone into the matter in detail and after relying upon various judgments, has passed the impugned order on merits. It is seen that the case of the appellant was rejected on the main ground of application of proviso to Regulation 18 of the Regulations, which states that the provisions of this Regulation shall not apply for determining the minimum service required to make an employee eligible for pension. On a perusal of the said proviso, we could find that it has been introduced only on 01.03.2003 vide Government Gazette Notification No.9, whereas the appellant had already got retired voluntarily on 30.06.2001. Thus, as on the date of voluntary retirement of the appellant, this proviso was not in existence. The proviso which has been subsequently introduced, i.e., on 01.03.2003 should not be made applicable retrospectively. This aspect has not been taken note of by the learned single Judge.

11.In such view of the matter, the impugned order passed by the learned single Judge is set aside and the writ appeal is allowed. Consequently, the

orders passed by the third respondent on 29.09.2011 in proceedings No.Ref.CO/Pension Cell/8565/2011-12 and the fourth respondent on 12.03.2012 in Proceedings No.REF.CO/ Pension Cell/586/2011-12 are also set aside and the third respondent is directed to extend the appellant the benefit of 5 years increase service in calculating the qualifying service for pension, as per Regulation 29(5) of the Indian Overseas Bank (Employees') Pension Regulations, 1995."

4. The learned counsel appearing for the review petitioners-Bank submits that the Division Bench did not take into consideration the proviso 18 of Indian Overseas Bank (Employees') Pension Regulations, 1995. This Regulation has to be seen in tune with the Regulation 29(5). This aspect has not been looked into. The review application will have to be allowed, particularly, when the respondent has only completed 19 years 6 months and 24 days. Secondly, it is submitted that the respondent having opted for the pension in the second option in the year 2010, the proviso dated 01.03.2003 would apply. It is further submitted that there are five similar employees alone who would be getting benefit and therefore, in any case, the petitioner would not be substantially prejudiced out of 27

5. The learned counsel appearing for the respondent submits that even assuming the proviso stands applied, this has to be seen in the context of Regulation 14 alone, which prescribed the qualified service. Therefore, the review petition will have to be dismissed.

6. We find force in the submission made by the learned counsel for the respondent. There is no difficulty in holding that the proviso to Regulation 18 came into being by the Notification dated 01.03.2003 whereas the respondent made upon to go under the pension scheme in the year 2010 pursuant to the agreement reached between the petitioner and the Union. Therefore, we are not going into the other issues raised by the learned counsel for the petitioner. Regulation 18 along with the proviso speaks of minimum service required to make an employee eligible for pension. Therefore, it has got no application to Regulation 29(5) and the Regulation 29(5) stands on a different footing. Admittedly, the respondent is eligible for pension. This section is also taken note of by the pension order dated 14.01.2011, wherein the total qualifying service is taken as 20 years. Therefore, this proviso cannot stand in the way of the respondent getting benefit under the Regulation 29(5) as it can only be made applicable to Regulation 14 alone. We may also refer the Regulation 29(5) for better appreciation.

employee retiring voluntarily under this regulation shall be increased by a period not exceeding five years, subject to the condition that the total qualifying service rendered by such employee shall not in any case exceed thirty-three years and it does not take him beyond the date of superannuation."

7. As stated earlier, this Regulation is an extension for the benefit granted for further period of five years. Proviso to Regulation 18 can be made applicable to it. In such view of the matter, the review application stands dismissed. Consequently, the petitioners shall give effect to the order passed aforesaid in tune with the order passed by us within a period of eight weeks from the date of receipt of a copy of this order. Resultantly, the contempt petition stands closed.

सत्यमेव जयते

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

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//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER (O.S.)

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