

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 15485 of 2008

C.R. Chandrasekaran

... Petitioner

-vs-

1. Indian Overseas Bank,
Represented by its Chairman and
Managing Director,
Central Office,
762, Anna Salai,
Chennai - 600 002.

2. The Competent Authority for
Pension Regulations,
(Deputy General Manager),
Indian Overseas Bank,
Central Office,
762, Anna Salai,
Chennai - 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the first and the second respondents to revise and pay to the petitioner from the date of his retirement the basic pension on the basis of his average emoluments based on the revised scale of pay effective from 01.11.1992 as laid down in regulation 2(d) read with regulation 35(2) of the Indian Overseas Bank (Employees') Pension Regulations, 1995.

For Petitioner : No appearance

For Respondents: : Mr.K.Srinivasamurthy
Standing Counsel

O R D E R

The prayer sought for in the Writ Petition is for a Writ of Mandamus directing the respondents to revise and pay to the petitioner from the date of his retirement the basic pension on the basis of his average emoluments based on the revised scale

of pay effective from 01.11.1992 as laid down in regulation 2(d) read with regulation 35(2) of the Indian Overseas Bank (Employees') Pension Regulations, 1995.

2. The petitioner joined service at the respondents Bank on 07.11.1955 and retired from service on 31.01.1993 after rendering 37 years of service. Admittedly, the petitioner was an Officer in Middle Management Grade Scale III attached to Central Office of the respondents Bank at Chennai on the date of his retirement. After retirement, he is getting pension, however in this regard, it is the grievance of the petitioner that on 23.06.1995, an agreement signed between the Management of the Bank and the Officers' Organization which is otherwise called Joint Note. According to the Joint Note, the pay has been revised along with some other emoluments, HRA, Dearness Allowances, and Gratuity etc., In order to appreciate the actual revision, pursuant to the Joint Note dated 23.06.1995, clause 15 of the said Joint Note can be usefully referred to hereunder:

15) Date of Effect:

For payment of arrears, the benefits under various provisions as above shall be effective from the dates specified hereunder:

W.E.F.

- | | |
|--|------------|
| (i) House Rent Allowance on revised basic pay | 01.11.1992 |
| (ii) Scales of Pay and Dearness Allowance | 01.07.1993 |
| (iii) City Compensatory Allowance, Provident Fund, Advance Increment and Fixed Personal Allowance | 01.11.1993 |
| (iv) Gratuity, Medical Aid, Hospitalization Expenses, Second Stagnation Increment in Scale III, Professional Qualification | 01.11.1994 |
| Allowance, Recovery of House / Furniture Rent | |
| (v) Categorization of Branches | May, 1995 |
| (vi) Halting Allowance | 01.06.1995 |

3. By relying upon this Joint Note, where the pay has been revised by implementation of the scheme, with effect from 01.07.1993 and in this regard, some of the benefits like HRA had been revised with retrospective effect from 01.11.1992, the petitioner seems to have requested the Bank to revise his pay scale by implementing the Joint Note dated 23.06.1995 and accordingly or correspondingly, revise the pensionary benefits also and to pay the same. Since the said request having not been considered, the petitioner has approached this Court by filing the present Writ Petition with the aforesaid prayer.

4. When the case is called today, the petitioner who appeared party-in-person is not appeared, however, Mr.K.Srinivasamurthy, learned Standing counsel appearing for the respondents Bank has taken this Court to the import of the Joint Note dated 23.06.1995 and its effect on its implementation as well as the import of the decision of Karnataka High Court dated 19.11.2004, which has been heavily relied upon by the petitioner.

5. The learned Standing counsel appearing for the respondents would submit that, insofar as the Joint Note is concerned, no doubt, the pay has been revised to the Officers of the Bank and the date of effect has been mentioned at Clause 15, which is quoted herein above, according to which, the scale of pay and Dearness Allowances would be revised from 01.07.1993, however the allowances like HRA, it is revised from 01.11.1992, of course retrospectively. Insofar as the implementation of this revision is concerned, since the very scheme itself came into effect from 01.07.1993, those who were in service on the date of implementation of the scheme i.e., on 01.07.1993 alone would be entitled to get the benefits. He would further submit that, since the petitioner retired from service on 31.01.1993 i.e., well before the effective date of the revision of pay, the petitioner is not entitled to get any revision of scale of pay as well as Dearness Allowances, subsequently he will also not be eligible to get any revised pension as claimed by him.

6. The learned counsel insofar as the judgment of the Karnataka High Court made in W.P. No. 18298 of 1999 dated 19.11.2004 is concerned has submitted that, in the said case, the petitioner was not an officer and he was only a workman. Moreover, it is a crucial factor to be noted that, the said workman retired from service on 31.10.1993 i.e., well after the scheme came into effect from 01.07.1993.

7. Despite the said employee in that case retired only on 31.10.1993, on that date, the scheme already been implemented, his pay benefits since was not considered or given. Therefore, he approached the Court of law, where considering the import of the effect of the scheme for revision of pay scale and Dearness Allowances and the corresponding revision of pension which could be implemented from the effective date of the scheme i.e. from 01.07.1993, the Karnataka High Court has allowed the Writ Petition.

8. The learned standing counsel appearing for the respondents draw a distinction between the facts of that case as well as the facts of the present case, where, the petitioner admittedly retired on 31.01.1993, i.e., well before the scheme

came into effect. Therefore, the effects whatever accrued to the employee or the officer, who is on service on 01.07.1993, would not be made available to the persons, who already retired like the petitioner. Therefore, the learned Standing counsel would submit that, the plea raised in this Writ Petition could not be countenanced, therefore he seeks dismissal of this Writ Petition.

9. I have considered the said submissions made by the learned Standing counsel appearing for the respondents and have perused the materials placed before this Court.

10. It is an admitted fact that, the petitioner was working as an officer and who admittedly retired on 31.01.1993. The scheme i.e., Joint Note dated 23.06.1995, through which the petitioner seeks benefits of revision of his pay and corresponding revision of his pensionary benefits, came into effect from 01.07.1993. Though certain allowances like HRA was retrospectively given effect to from 01.11.1992, where the petitioner is entitled to get any HRA from 01.11.1992, can very well be looked into by the respondents authorities and if so, they can consider and extend the benefits.

11. However, insofar as the revision of scale of pay and Dearness Allowances is concerned, the scheme has come into effect only from 01.07.1993 and before the scheme came into effect, on 31.01.1993 itself, since the petitioner retired from service, the principles laid down by the Karnataka High Court in the said W.P. No. 18298 of 1999 in the matter of A.N.Surkund vs. Canara Bank dated 19.11.2004, would not be made available or applicable to the petitioner's case. Therefore, as has been rightly pointed out by the learned Standing counsel appearing for the respondents, based on the Karnataka High Court judgment cited supra, the petitioner cannot claim any benefit, as the employee who was the petitioner in the Karnataka High Court case admittedly retired on 31.10.1993, i.e., well after the scheme came into effect. Once a scheme is introduced and the effective date of the scheme is also provided, unless the scheme is changed or it is found to be unlawful or in violation of any statutory rules and if the scheme is implemented and this implementation is accepted by the employer or its officer concerned, no exception can be claimed by any employee for giving extension of the scheme, for those who are not entitled to the same.

12. Here in the case in hand, since the petitioner retired on 31.10.1993, on the date of implementation i.e., 01.07.1993, of the scheme called 'Joint Note', the petitioner is no more employee of the Bank. Therefore, the question of giving the benefit of revision scale of pay and Dearness Allowances to the

petitioner does not arise. Therefore, as a sequel, he would not be entitled to seek any revision in his pension. Therefore, such a plea now raised by the petitioner cannot be countenanced.

13. In that view of the matter, as has been discussed above, this Court has no hesitation to hold that, the petitioner is not entitled to claim the benefits as sought for in this Writ Petition, which is deserved to be rejected. Therefore, the Writ Petition is dismissed. However, there shall be no order as to cost.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vji
To

1. The Chairman and Managing Director,
Indian Overseas Bank,
Central Office,
762, Anna Salai,
Chennai - 600 002.
2. The Competent Authority for Pension Regulations,
(Deputy General Manager),
Indian Overseas Bank,
Central Office,
762, Anna Salai,
Chennai - 600 002.

+1cc to N.G.R.Prasad, Advocate Sr.649

सत्यमेव जयते

W.P. No. 15485 of 2008

sr-II[co]
srg 08/04/2021

WEB COPY