AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2449 OF 2022

Keshaorao Chirkutrao Wasnik …Petitioner
V/s.
General Manager, Bank of India,
Mumbai & Anr. …Respondents

Mr. Sanjay Kulkarni for the petitioner.
Ms. Ranjana Todankar for the respondents.

CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.

DATE: JUNE 24, 2022

P.C.:

1. The petitioner was an employee of the Bank of India. He retired from the service of the Bank on 31st December 2014. On account of terminal benefits, he received his own contribution of provident fund. While the petitioner was in service, a circular dated 24th August 2010 was issued by the Bank to all its branches/offices in pursuance of an Agreement/Joint Note dated 27th April 2010 executed by and between the Indian Banks' Association and various Officers' Association/Workmen Unions (United Forum of Bank Unions). All the existing employees were called upon to submit option during the period 1st September 2010 to 30th October 2010. Neither did the petitioner opt for pension nor for provident fund in terms of the Bank of India (Employees') Pension Scheme, 1995. Having not opted for pension, the petitioner forfeited whatever right he could have claimed under the circular.

2. Six (6) long years after his retirement, the petitioner by a letter dated 20th January 2021 addressed to the General Manager, Bank of India requested that the pension scheme be made applicable to him on his retirement. Such request was spurned by the Bank by its letter dated 26th February 2021 (Exhibit 'D'), which is the subject matter of challenge in this writ petition.

3. Perusal of the impugned order reveals that the request was spurned only on the ground that the petitioner did not submit his option between 1st September 2010 to 30th October 2010.

4. In this writ petition, there is no complaint of violation of any fundamental right or constitutional right of the petitioner. What the petitioner seeks is enforcement of the terms of the Agreement/Joint Note, in pursuance whereof the circular dated 24th August 2010 saw the light of the day. A last opportunity was given to the existing employees by the Bank to exercise their option by 30th October 2010. The time limit for submitting option having expired without the petitioner submitting his option, there can be no valid claim in the eye of law that the time limit ought to be extended for the petitioner; that too, at such a distance of time. The right, if any, flowing from the circular in regard to exercise of option is a contractual right. In the absence of a fresh agreement with the Bank and the unions, a contractual right even does not exist. The Bank cannot be directed to extend the time for submission of option by a Mandamus. If at all the Bank extends the time limit on its own in future and the petitioner is eligible to opt, he shall be at liberty to do so.

5. In such view of the matter, we are not inclined to entertain the writ petition. The same stands dismissed. No costs.

6. This order shall, however, not preclude the petitioner to exercise his option in accordance with law, if in future the Bank permits exercise of such option.

(M. S. KARNIK, J.) **(CHIEF JUSTICE)**

ATUL GANESH KULKARNI

Digitally signed by ATUL GANESH KULKARNI Date: 2022.06.27 11:20:16 +0530