IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.27533 of 2010
and
M.P.No.1 of 2010

V.Dhakshinamoorthy ... Petitioner

Vs

1.Managing Director,
Canara Bank,
J.C.Road,
Bangalore - 2.

2.Senior Manager, HRM Section,
Canara Bank,
Circle Office,
No.524, Anna Salai,
Teynampet,
Chennai - 600 018. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the 1st respondent Canara Bank Head Office Circular No.297/2010 dated 21.08.2010 in so far as the fixation of 60 days duration for exercising option to avail pension is against the Canara Bank (Employees') Pension Regulations 1995, which prescribed 120 days is concerned, and the consequential rejection order Ref.CNC/HRMS/PEN OPT/2010 dated 10.11.2010 passed by the 2nd respondent, and quash the same, and direct the respondents to accept the option letter dated 07.11.2010 of the petitioner and enroll the petitioner under Pension Scheme, receiving the Provident Fund contribution, so as to enable the petitioner to get Pension.

For Petitioner : Mr.P.Ganesan for
M/s.C.S. Associates

For Respondents : Mr.Gowtham S.Raman
[For R1 & R2]

ORDER

The petitioner, who was an employee of the Respondent-Bank and retired on Voluntary Retirement with effect from 17.02.2001, has filed the writ petition, challenging the Circular dated 21.8.2010, issued by the Respondent-Bank inasmuch as it prescribes only 60 days for exercise of option for the retired employees to become a member of the pension fund and the consequential order dated 10.11.2010 passed by the Respondent-Bank, rejecting his option as beyond the period of 60 days.

2. The case of the petitioner is that originally by Canara Bank Employees Pension Regulations, 1995, a Pension Scheme was introduced. However, it was not implemented in respect of the petitioner. In the year 2010, by the impugned Circular, the Pension Scheme was implemented. However, the Annexure to Circular No.297/2010 dated 21.08.2010, wherein Clause 1(b) permitted only 60 days time for exercise of option by the retired employees. The petitioner, considering the original regulations, which had the time limit of 120 days, due to his circumstances, made the option only on 07.11.2010, which was received by the respondent-Bank on 09.11.2010. Finding that there is a delay of 20 days, the respondent-Bank had rejected the same by the impugned order. Therefore, he has filed the present writ petition, challenging the Circular inasmuch as it prescribes only 60 days as against the period of 120 days, which was originally contemplated by the Pension Regulations of the year 1995 and the consequential order of rejection, he has filed the present writ petition.

3. Heard Mr.P.Ganesan, learned counsel for the petitioner and Mr.Gowtham S.Raman, learned counsel for the respondents 1 and 2.

4. Reiterating the contentions raised in the affidavit filed in support of the writ petition, the learned counsel for the petitioner submitted that, when as per Regulations, it was only 120 days and when his option is exercised well within the period of 120 days, the rejection of his option, based on Clause 1(b) of the Circular that the time limit is only 60 days is illegal. The respondents ought not to have tinkered with the original time limit of 120 days stipulated by the original Regulations. Therefore, he would pray that the Circular in as much as it prescribes a different time limit is arbitrary and therefore, prays that the consequential order should also be quashed and the petitioner be permitted to become the member of the pension scheme. He would further submit that on account of the narrow

view taken by the Respondent-Bank, the petitioner is suffering and losing heavily in terms of pension, though he has put in 20 years of service in the Respondent-Bank.

5. Per contra, the learned counsel appearing on behalf of the Respondents-Bank would submit that the primary contention that the Regulation prescribes 120 days and that the Circular tinkers with it as 60 days is perse incorrect. He would further submit that the original scheme, which is known as the Canara Bank Pension Regulations, 1995, is a scheme, which applied to person, who retired from service from 01.01.1986 to 01.11.1993. The petitioner obviously is not covered under the said scheme because he retired from service only in the year 2001. Thereafter, the employees have been periodically raising demand that subsequent retiree should also be included in a pension scheme and therefore, after negotiations between the workmen and the Management by way of a joint note, the present Circular, which is an extraordinary extension of the pension scheme, so as to cover the persons, who retired from 29.09.1995 up to 27.04.2010 and it is agreed between the parties that option will be exercised within a period of 60 days and accordingly, it is stipulated in the said Circular and therefore, the argument that the Circular tinkers with the original period of 120 days is fallacious.

6. This apart, the learned counsel for the respondents would also submit that the petitioner had stated a different reason in the representation made by him that he was mentally ill and therefore, he could not make the representation within 60 days. However, the petitioner had come up with a different reason that he is in a remote village and therefore, he could not exercise the option within 60 days in the present writ petition. Therefore, there is no bonafide in the claim of the petitioner. He would further submit that since the scheme operates by itself and the option is coupled with a cut-off date, the petitioner cannot be extended the benefit. He would also submit that the question is also no longer res integra having been covered by an earlier judgment of this Court in W.P.No.28047 of 2012 dated 17.02.2020, which is rendered in respect of the similar facts and circumstances in respect of Andhra Bank and therefore, would pray that there is no merit in the writ petition.

7. I have considered the rival submissions made on behalf of both sides and perused the material records. I am unable to agree with the learned counsel for the petitioner that the Circular could not have tinkered with the original date of 120 days fixed in the original Circular.

8. As rightly pointed out by the learned counsel for the respondents that it is not a mere extension of the original scheme as the original scheme was specifically in respect of the employees, who retired from 01.01.1986 to 01.11.1993. The present scheme is for the employees, who retired from 29.09.1995 to 27.04.2010. Therefore, it can never be an extension of the original, but however it is only the application of the erstwhile scheme to a different set of employees and while doing so, as per the joint note, both sides have agreed upon 60 days being the outer time limit for exercise of option and therefore, I hold that it is valid and therefore, no error or illegality can be attributed to Clause 1(b) of the Circular dated 21.08.2010. Once the Circular is held to be valid, no exception can be taken to the consequential order passed by the Respondent-Bank in rejecting the option, especially when the petitioner has been coming up with different reasons for the delay. In any event, when the scheme contemplates a cut-off date and when the exercise of option is to be done within a particular time limit, the petitioner has no right to demand for extension of time having failed to exercise the option within the time limit. This view has already been taken by the learned Judge in the judgment dated 17.02.2020 in W.P.No.28047 of 2012, in paragraph 16 of the said judgment after taking note of the point that the paper publications were also issued pursuant to the scheme, this Court has categorically held that there is no question of extension of time and the petitioner has to blame himself for his loss.

9. For the reasons stated above, there is no merit in this writ petition and accordingly, the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.The Managing Director,
   Canara Bank,
   J.C.Road, Bangalore – 2.

2. The Senior Manager, HRM Section,
   Canara Bank,
   Circle Office,
   No.524, Anna Salai,
   Teynampet, Chennai – 600 018.

+1cc to Mr.Gowtham S.Raman, Advocate SR.No.16814

+1cc to M/s.C.S.Associates, Advocate SR.No.16957

W.P.No.27533 of 2010

PMK(CO)
GMY(29/03/2022)