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Cont.P.No.1174 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.03.2022

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

Cont.P.No.1174 of 2020

1.The Commercial Banks,
Registered Employees Association,
(Regn. No.293/2001)
Rep.by its Secretary,
V.Vasudevan,
Old NO.87 (New No.2),
4th Main Road, Gandhi Nagar,
Adyar, Chennai – 600 020.

2.V.Rangaramanujam,
'Rams, Flat No.14,
Old No.1/New No.3,
3rd Main Road,
Gandhi Nagar, Adyar,
Chennai 600 020

..Petitioners

Vs.

1.Mr.Rajkiran Rai G
Managing Director & Chief Executive Officer,
Andhra Bank Amalgamated with
Union Bank of India having
Head Office, Union Bank Bhavan,
239, Vidhan Bhavan Marg,
Nariman Point, Mumbai – 400 021.

2.Mr.L.V.Prabhakar,
Managing Director & Chief Executive Officer,
Canara Bank, Head Office,



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112, J.C.Road, Bangalore 560 002.
(Karnataka).

3.Mr.Atul Kumar Goel,
Managing Director & Chief Executive Officer,
UCO Bank, Head Office,
10, B.T.M.Sarani,

Kolkata 700 001, (West Bengal).

..Respondents

Prayer: Contempt Petition filed Under Section 11 of the Contempt of Court Act, 1971 praying to punish the respondents or wilfully disobeying the order dated 04.04.2019 made in W.P.No.16784 of 2004.

For Petitioners : Mr.A.R.Nixon

For Respondents : Mr.Kalyanaraman for
M/s.Aiyar & Dolia for R1

Mr.P.R.Raman, Senior Counsel
for Mr.Gautam S.Raman for R2

M/s.Rajinish Pathiyil for R3

ORDER

The petitioners seem to be aggrieved against the method adopted by the respondents in recomputing the pension, pursuant to my orders dated 04.04.2019, passed in W.P.No.16784 of 2004. By relying upon the prayer sought for in the writ petition, the learned counsel for the petitioners submitted that since the prayer was for a direction to the respondents to grant them the benefit of Pension Regulation 1995, by taking into account



the last drawn 10 months average pay as per Regulation 2(d) for a period from the date of retirement till 30th April, 2005 together with commutation and dearness relief as per Appendix II of Regulation 37, this prayer is deemed to have been ordered as prayed for, since the writ petition was “allowed”.

2. Effectively, the petitioners herein are challenging the calculation made by the respondents while recomputing the pension. When I had passed this order in W.P.No.16784 of 2004, dated 04.04.2019, the findings and direction in the order was only for the purpose of implementing the order of the Hon'ble Supreme Court, passed in Civil Appeal No.5525 of 2012, in the case of ***Bank of Baroda and another Vs. G.Palani & others***. In the said order, the explanation to Section 33 was struck down as arbitrary. I had also placed reliance on the decision of Hon'ble Division Bench, in W.P.Nos.970, 5916 and 19830 of 2002.

3. The learned counsel appearing on behalf of the Nationalised Banks, submitted that the orders of the Hon'ble Supreme Court in the case of ***G.Palani*** (supra), have been implemented and the pensions have also been computed accordingly. It is further stated that as against the orders passed in W.P.Nos.970, 5916 and 19830 of 2002, Contempt Petition Nos.2495 of 2018 and 309 of 2019, were filed before the Hon'ble Division Bench of this Court,



in the case of ***T.R.Sankaran and others vs. Sri.P.S.Jayakumar, Managing***

Director and CEO and others, and by an order dated 16.03.2021, the

Hon'ble Division Bench, took note of similar grounds raised therein and had observed that such method of calculations cannot be gone into within the contempt jurisdiction and thereby granted liberty to the pensioners to workout their remedies, before the Competent Forum. The relevant portion of the order reads as follows:

“.....

11.A perusal and consideration of the affidavit filed in support of this petition for Contempts, affidavit of compliance, reply / additional reply filed to the affidavit of compliance would disclose that the alleged contemptuous act pertains to part non compliance of the orders, which are the subject matter of contempt in these Contempt Petitions and challenge is made mainly with regard to the calculation done.

.....

16. The submission made by the respective learned counsel appearing for the parties revolve around calculation of arrears and recovery of the excess amount paid. As pointed out by this Court in the earlier paragraphs, exact calculation of the arrears to be paid or amount sought to be recovered, in the considered opinion of this Court, cannot be gone into by this Court in contempt jurisdiction. If the petitioners are aggrieved by the same, they are at liberty to workout their remedies in



accordance with law before the contempt Forum, who may also taken into consideration the above cited decisions rendered by the Hon'ble Supreme Court of India.”

4. As stated earlier, though the petitioners had sought for a larger prayer, this Court in its order passed in W.P.No.16784 of 2004, had only directed for implementation of the order of the Hon'ble Supreme Court in ***G.Palani's case*** (supra). It is hereby clarified that merely because the writ petition was said to have been “allowed”, the prayer sought for in the writ petition was not ordered as prayer for, which is evident on an over all reading of Paragraph No.3. Likewise, when I had stated that the respondents should adhere by the terms of VRS Scheme in the ultimate sentence of the order, the intention behind such observation was restricted only for the purpose of computing the pension, in accordance with the decision of the Hon'ble Supreme Court in ***G.Palani's case*** (supra).

5. Incidentally, when the employees of the State Bank of India had filed contempt petitions before the Hon'ble Supreme Court in the case of ***H.G.Srinivas Prasad etc., vs. Rajnish Kumar, Chairman State Bank of India*** in ***Cont.P.Nos.209 – 311 of 2019***, an identical ground was taken by the petitioners that the calculation of dearness allowance was erroneous. To such a ground, the Hon'ble Supreme Court, had observed that such mistake



in calculations cannot be gone into within the contempt jurisdiction and had granted liberty to them to work out their remedies. Such finding is as follows:

“....

4. After hearing learned counsel for the parties at length, we are of the opinion that dispute as to the basis of dearness allowance cannot be gone into within the contempt jurisdiction. In case, petitioners are aggrieved by the basis of computation of dearness allowance, they are free to agitate the issue in an independent proceeding before an appropriate forum.”

6. In line with the aforesaid decisions as well as the order passed by the Hon'ble Division Bench in ***T.R.Sankaran's case*** (supra), this Court is of the view that the claim of the petitioners that the respondents have not followed the proper method for calculating the pension, cannot be gone into within the contempt jurisdiction. If at all, the petitioners are aggrieved on the mode in which the computation has been made, liberty is hereby granted to them to question the same in an independent proceeding before the appropriate Forum. As such, the disobedience alleged cannot be termed to be wilful in nature.



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7. Accordingly, the Contempt Petition stands closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

pns

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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GS/11/04/2022

To

- 1.The Managing Director & Chief Executive Officer,
Andhra Bank Amalgamated with
Union Bank of India having
Head Office, Union Bank Bhavan,
239, Vidhan Bhavan Marg,
Nariman Point, Mumbai – 400 021.
- 2.The Managing Director & Chief Executive Officer,
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