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W.P.No.12682 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12682 of 2013

1. B.Chandrabose
2. T.P.Shanmugam
3. AL Palaniyappan
4. AR.Shanmugam
5. P.Thangaraj
6. T.R.Balasubramanian
7. A.K.Balasubramanian
8. S.Chidambaram
9. Anantha Padmanabhan
10. R.Mannaraj
11. S.Nagaiyan
12. All India Indian Bank Retirees' Association,
(Regd.)
represented by its General Secretary,
No.6, Moore Street,
Chennai-600 001.

... Petitioners

-Vs-

1. Indian Bank
represented by its Chairman and Managing Director,
Corporate Office/Head Office,
254 to 260, Avvai Shanmugam Salai,
Royapettah, Chennai-600 014.
2. The Competent Authority and
Assistant General Manager,
Indian Bank,
Corporate Office/Head Office,
254 to 260, Avvai Shanmugam Salai,
Royapettah, Chennai-600 014.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to Clause 2 (b) of Joint Note dated 02.06.2005 and quash the same insofar as it denies 100% neutralization on Dearness Relief to the petitioners who retired earlier to 01.11.2002 and consequently direct the respondents to pay the petitioners Dearness Relief at 0.24% of basic pension which is 100% neutralization for them as in the case of pensioners who retired on or after 01.02.2010 with interest.

For Petitioners : Mr.V.Sivaraman
for Mr.K.M.Ramesh

For Respondents
R1 : Mr.V.Kalyanaraman
for M/s Aiyar and Dolia
R2 : Notice served
No appearance

ORDER

This Writ Petition has been filed challenging the Clause 2 sub-clause (b) of Joint Note dated 02.06.2005, thereby granting Dearness Allowance from the period 01.02.2005, shall be payable for every rise or fall of 4 points over 2288 points in the quarterly average of the All India Average Working Class Consumer Price Index (General) Base 1960 = 100 at 0.18% of pay.

2. Heard the learned counsel for the petitioners and the learned counsel for the first respondent and perused the materials available on record.



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3. The petitioners 1 to 11 are Retired Officers of Indian Bank and 12th petitioner is an association of Retirees of Indian Bank, registered under the Tamil Nadu Societies Act. The grievance of the petitioners 1 to 11 is that the Joint Note dated 02.06.2005 denies 100% neutralization on Dearness Relief, who retired earlier to 01.11.2002 and consequently direct the respondents to pay the Dearness Relief at 0.24% of basic pension which is 100% neutralization for the pensioners who retired on or after 01.02.2010. Similarly placed petitioners, already filed a writ petition before this Court in W.P.No.50000 to 50002 of 2006. This Court, by an order dated 14.12.2012, allowed the writ petitions and directed the respondents to extend the benefits of 8th Bipartite Agreement/Joint Note, as given to the employers who have retired from 01.11.2002 to 31.10.2007, to the writ petitioners.

4. Aggrieved by the same, the respondents in those writ petitions, namely Indian Overseas Bank and the competent authority for pensionary relief filed W.A.Nos.355, 688 to 690 of 2013. A Hon'ble Division Bench of this Court, by an order dated 17.06.2013, set aside the order passed by the learned Single Judge of this Court in a batch of writ petitions and held that the respondents in the Writ Appeals are not coming within the ambit of 8th Bipartite Settlement/Joint Note as it has been extended/applied only to the employees



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who were in service on 01.11.2002. Admittedly, the respondents in the Writ Appeals have retired long prior to the said date and consequently, it is not open to them to contend that they should be given same rate of Dearness Relief as that of persons who are covered under the 8th Bipartite Settlement/Joint Note. It cannot be termed as discrimination for the reason that the respondents in the writ appeals and the persons who are covered by the 8th Bipartite Settlement/Joint Note belong to different class, as they are covered by the earlier Bipartite Settlements. It was further held that the employees who are covered by Bipartite Settlement, prior to 8th Bipartite Settlement, are paid Dearness Allowance at tapering rates and as per the 8th Bipartite Settlement, dates fixed for Dearness Allowance of 0.18% to the basic pension as on 01.05.2005 in respect of the persons who were in service on 01.11.2002 and to those employees who retired between 01.11.2002 and 30.04.2005.

5. Aggrieved by the order passed by the Hon'ble Division Bench of this Court, the respondents in the Writ Appeals filed SLP Nos.8420 and 8421 of 2013 and the same was also dismissed by the Hon'ble Supreme Court of India by an order dated 01.02.2017. In fact, this writ petition is also filed on the strength of the order passed by the learned Single Judge of this Court, in a batch of writ petitions in W.P.Nos.5000 to 5006 of 2002 dated 14.12.2012.



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6. The learned counsel for the petitioners also relied upon the Judgment of the Hon'ble Supreme Court of India passed in batch of Civil Appeals dated 17.01.2013. However, the said Judgment is not applicable to the case on hand, since the said appeal pertains to the Government Employees.

7. Therefore, this Court finds no infirmity or illegality in the order passed by the second respondent and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

20.07.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

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represented by its Chairman and Managing Director,
Corporate Office/Head Office,
254 to 260, Avvai Shanmugam Salai,
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