



W.P.No.2627 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	10.04.2023
PRONOUNCED ON	:	01.06.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

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- 1) S.Ranganathan
- 2) R.Chakrapani
- 3) C.Murugan
- 4) B.Swaminathan
- 5) K.R.Raja
- 6) I.Krishnasamy
- 7) S.Gasper
- 8) E.N.Krishnamurthy
- 9) R.Panchanathan
- 10) S.Rajamanikkam
- 11) ViswanathanSubbiah

... Petitioners

Vs.

1. Union of India,
Rep. By Secretary, Ministry of Finance,
New Delhi.



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2. The Central Board of Reserve Bank of India,
Rep. By its Governor,
Fort, Mumbai 400 001

3. Reserve Bank of India,
Rep. By its Regional Director,
Rajaji Salai, Chennai 600 001

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Declaration declaring that the cut off date fixed as 12.01.2013 in the amended Regulation 28 of the RBI Regulation 1990 as illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently direct the respondent to grant petitioners who have completed 20 years of service, full pension from the respective dates of retirement.

For Petitioners : Mr.Ravikumar Paul,
Senior Counsel

For R-1 : Mr.T.L.Thirumalaisamy

For RR 2 & 3 : Mr.T.Pooranam

ORDER

This writ petition has been filed seeking to declare the cut off date fixed as 12.01.2013 in the amended Regulation 28 of the RBI Regulation 1990 as illegal, arbitrary and violative of Article 14 of the Constitution of India and for



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issuance of a consequential direction to the respondents to grant the petitioners, who have completed 20 years of service, full pension from the respective dates of retirement.

2. The brief facts of the case are as follows:-

The petitioners herein are the retired employees of the 2nd respondent office, who have as on date, completed over 20 years of service in the Reserve Bank of India. Regulation 28 of the Reserve Bank of India Pension Regulations, 1990 was amended on 12.01.2013 granting full pension, after 20 years of qualifying service instead of 33 years of qualifying service and increasing the minimum pension to Rs.3,500/- instead of Rs.720/-. But the said benefit was restricted to those retiring on or after 12.01.2013

3. It is submitted that the petitioners who have rendered 17 to 25 years of service in 2013 were denied the benefit of this liberalization, by applying 12.01.2013 as a cut-off date by the circular in CO HRMD No.G.102/5998/21.01/2012-2013 dated 18.03.2013. Therefore, the petitioners vide their representation dated 30.09.2014, had requested the second respondent to grant full pension on completion of 20 years of their



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service, even in respect of those who have retired prior to 12.01.2013 by granting the benefit under the amendment. Since the request is pending for consideration before the second respondent, without any action, the petitioners have approached this Court by way of filing the present writ petition.

4. Mr.Ravikumar Paul, Senior counsel appearing for the petitioners would submit that any enhancement benefits provided to the existing pension scheme should be applicable to all the pensioners, as they form a separate class as held by the Constitutional Bench of the Hon'ble Supreme Court in the case of ***D.S.Nakara vs.Union of India*** reported in (1983) 1 SCC 305. Therefore, according to the learned counsel, the cut off date prescribed by the respondent Bank with regard to its applicability, thereby creating two separate class of similarly placed pensioners, is illegal and therefore, the same needs to be declared as void.

5. As held by the Hon'ble Supreme Court, pension is not a bounty but for the service rendered. The option provided by the petitioners at the time of



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joining the respondent Bank, enables them to claim the full pension in view of the amendment in Regulation 28 and this has been reiterated in ***All Manipur Pensioners Association's*** case reported in (2020) 14 SCC 625.

6. It was further submitted that any liberalization or upward revision in the existing pension scheme is applicable to all the pensioners and there cannot be any cut off date with regard to its applicability. Therefore, the claim of the respondent Bank that the amended provision will be applicable only for the pensioners, who have retired after 12.01.2013 is liable to be rejected.

7. The learned Senior counsel appearing for the petitioner would rely on the decision of Bombay High Court dated 06.05.2021, wherein the resolution dated 10th May 2016 being discriminatory to the effect that it does not include those pensioners who retired pre-1996. The learned Judges, Division Bench, held that the present writ petition is squarely covered by the decisions of Hon'ble Supreme Court in the case of D.S.Nakar and All Manipur Pensioners Association and held that division is, thus, both arbitrary and unprincipled, therefore, the classification does not stand the test of Article 14 of



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Constitution of India.

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8. The respondents 2 and 3 filed counter and submitted that the writ petition is neither maintainable in law nor on the facts of the case and there is no violation of any fundamental, legal or statutory rights as alleged by the petitioners. The issues raised in the writ petition is only disputed questions of facts and the petitioners cannot call upon the High Court to examine and decide such disputed question of facts in exercise of jurisdiction under Article 226 of Constitution of India.

9. The Bank issued amendment to Regulation 28 of the Pension Regulations vide Administrative Circular No.8 dated March 18, 2013 by which an employee retiring from the Bank's service on or after January 12, 2013 with the qualifying service of 20 years will be eligible to draw full pension and those with qualifying service of less than 20 years will draw pension on proportionate basis for number of years of qualifying service rendered by them in the Bank. It is stipulated that the employees retired prior to January 12, 2013 prior to January 12, 2013 and covered under this



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regulations will continue to receive pension as per the previous regulation and the said amendment is not applicable to them.

10. It is stated in the counter that the employees who have rendered military service before the appointment in the Bank had the option under Regulation 14 of the Pension Regulations to either continue to draw the military pension in which case their former military service shall not be counted as qualifying service or cease to draw his pension and refund the pension already drawn on re-employment and value received for the commutation of a part of military pension and count military service as a qualifying service. The petitioners have availed their option of drawing military pension. Therefore, on retirement from the Bank, the petitioners are eligible for the qualifying service they have rendered in the Bank. The Amendment to regulation 28 of the RBI Pension Regulations have come into effect from the date of notification in the Gazette i.e., 12.01.2013, which also declares the cut-off date for drawing full pension on completion of 20 years as on 12.01.2013 or thereafter. Under the extant Pension Regulations, the petitioners are not covered as they have retired before the cut off date



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12.01.2013.

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11. It is further averred in the counter that it is a well settled principle that any scheme or subsequent improvement or changes to the scheme are introduced from a cut-off date, the applicability of the same is from the cut off date only and not retrospectively. Therefore, the amendment will not be applicable to those retired person to this date.

12. It is also pointed out in the counter that there were no issues in respect of the petitioners as they were drawing pension as per their entitlement and as per their average, emoluments as defined under Regulation 2(2) of RBI Pension Regulations, 1990. The petitioner had not opted to join their military service to the Bank's service and draw full pension. Therefore, the petitioners are not entitled for the relief sought for.

13. The learned counsel for respondents 1 to 3 would rely on decision of High Court of Himachal Pradesh, Shimla, dated 30.07.2019, wherein



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it was held that the entire foundation of the case of the respondent on the basis of D.S.Nakara was completely shaky and hollow. By its very nature, all legislations including subordinate legislations, can come into force only prospectively, unless retrospectivity is clearly spelt out in the Section dealing with the coming into force of the legislation.

14. The learned counsel further drew the attention of this Court to the counter affidavit filed by the respondent Bank, wherein the respondent Bank has stated about the military pension being drawn by the petitioner in respect of their past military service prior to employment in the RBI and the option exercised by the petitioners, who opted for pension under the RBI Pension regulations.

15. Heard both sides and perused the records carefully.

16. The only challenge in this writ petition is that the Circular dated 18th March 2013, wherein, amendment to Regulation 28 of the Reserve Bank of India Pension Regulations, 1990, was brought, which gives full pension



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after 20 years of qualifying service and minimum pension of Rs.3500/- which is made effective to the employees retiring on or after 12.01.2013 which is refused to the employees retired before 12.01.2013.

17. The contention of the petitioner is that the petitioners have worked under the 2nd respondent and retired and the details of their service is as follows:-

<i>Sl.No.</i>	<i>Name</i>	<i>Period of Service</i>	<i>Date of Retirement</i>
1	S.Ranganathan	24	30.06.2008
2	R.Chakrapani	25	31.03.2008
3	C.Murugan	22	28.02.2010
4	B.Swaminathan	22	31.01.2006
5	K.R.Raja	25	31.05.2007
6	I.Krishnasamy	19	31.01.2007
7	S.Gasper	23	31.03.2005
8	E.N.Krishnamurthy	19	30.06.2008
9	R.Panchanathan	24	31.07.2005
10	S.Rajamanikkam	23	30.09.2004
11	Viswanathan Subbiah	17	30.09.1998

The above table would make it clear that in so far as I.Krishnasamy, E.N.Krishnamurthy and Viswanathan Subbiah, are concerned, they are entitled for minimum pension of Rs.3,500/- and the other petitioners, who



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have completed 20 years of service would be entitled to enhanced pension if the pension is recalculated from 1.11.1987 to all the employees retiring from the 2nd respondent as a whole.

18. The contention of the learned counsel for the petitioners is that since any modification in the qualifying service of pension with the view to make it more beneficial in terms of quantum of pension is only a liberalization or upward revision and the same would be applicable to all existing pensioners and the creation of two separate groups by prescription of a cutoff date is arbitrary.

19. Even though it is the stand of the respondent-RBI that the disputed questions of facts cannot be gone into the writ petition, this court in the interest of justice, equity and fairplay, would view that the extraordinary jurisdiction of this court under Article 226 of Constitution can be invoked, while there is a discrimination in the payment of pension.

20. It is a matter of fact that the amended Regulation which was



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published in the Gazette did not contain any cutoff date and therefore, the cutoff date which was introduced by the Board by way of administrative direction dated 18.03.2013 is impermissible in law.

21. The Regulation was amended by way of a Gazette notification dated 12.01.2013 wherein no cutoff date was prescribed and therefore, the prescribed cutoff date taking away the benefits of the pensioners who retired before 12.01.2013, is arbitrary as the service rendered by the pensioners can only be taken into account.

22. The military service of the petitioners and the pension earned by them in the respondent bank has no connection at all. The petitioners are claiming the full pension based on the amended regulation of the Respondent Bank and not based on the military service.

23. As held by the Honourable Supreme Court in the case of D.S.Nakara, the cutoff date prescribed by the respondent bank with regard to its applicability creating two separate clause of similarly placed pensioners



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would create discrimination. The Supreme Court has held that financial difficulties shall not be the reason to fix the cutoff date when there is a liberalization or upward revision of pension.

24. It is rational and important to state that Section 58(3) of the Reserve Bank of India Act, 1934, enables the bank to bring regulation/amendment with prospective or retrospective effect. But the said aspect should be mentioned in the amended Regulation. In this case, the amended Regulation did not specify the prospective and retrospective nature, but this was introduced only by way of administrative direction. So, this court is of the considered opinion that following the decision of Honourable Supreme Court in the case of D.S.Nakara, the eligibility of the petitioners for full pension / minimum pension as per Regulation 28, in completion of their 20 years of service, is to be considered by the respondents. The implementation of amended Regulation 28 of RBI Pension (Amendment) Regulations, 2012., would be made effective to the employees retiring from bank's service. The benefit of the pension scheme cannot be denied to one set of pensioners when they all belong to very same class and the cut off date is



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unjustified.

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25. With the above observations, the writ petition is disposed of with a direction to the respondents to take note of the decision of the Honourable Supreme Court in D.S.Nakara case and extend the benefit of Regulation 28 to the petitioners herein as per their service rendered by them in the respondent-RBI. No costs.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : nvsri

To:

- 1.The Secretary,
Ministry of Finance, Union of India,
New Delhi.
2. The Governor,
Central Board of Reserve Bank of India,
Fort, Mumbai 400 001



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3. The Regional Director,
Reserve Bank of India,
Rajaji Salai, Chennai 600 001

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J.NISHA BANU, J.,

nvsri

Order made in
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Dated:
01.06.2023