



WEB COPY



W.P.No.41069 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.11.2022

PRONOUNCED ON : 06.01.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.41069 of 2015

and

W.M.P.No.17872 of 2021

Dr.B.Kalaivannan

... Petitioner

Vs.

1.The Chairman cum Managing Director
Indian Bank, Head Office
Avvai Shanmugam Salai
Royapettah, Chennai-600 014

2.The General Manager
Indian Bank Corporate Office
Avvai Shanmugam Salai
Royapettah, Chennai-600 014

3.The Assistant General Manager
HRM Department
Indian Bank, Head Office
Avvai Shanmugam salai
Royapettah, Chennai-600 014

..Respondents



W.P.No.41069 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order of the 3rd respondent vide their Circular No.HRM:105:2008-09 dated 10.01.2009, and quash the same and direct the respondents to sanction the pensionary benefits, effective from 18.09.2008 and other legal and terminal benefits to the petitioner.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.Kalayanaraman
for M/s.Aiyar and Dolia

ORDER

This writ petition is filed challenging the impugned order of the 3rd respondent dated 10.01.2009 and seeks to quash the same and to direct the respondents to sanction the pensionary benefits, effective from 18.09.2009 and other legal and terminal benefits to the petitioner.

2. The petitioner joined Indian Bank on 23.04.1984 as Clerk/Shroff at Ocheri Branch, Vellore District. He opted for “Pension Scheme” on 23.03.1996 under the Indian Banm (Employees) Pensions Regulations,



W.P.No.41069 of 2015

1995. The petitioner applied for temporary transfer to any one of the Pune Branches, vide letter dated 22.06.2006. But according to the petitioner his name was mentioned in the Voluntary Cessation of Employment Circular dated 10.01.2009, even without properly serving the notice, he was terminated from service.

3. According to the petitioner, his application before the Public Information Officer, first and second appeals did not yield any fruitful result as the respondent bank was not in a position to provide the basic details sought by him regarding Voluntary Cessation of Employment.

4. It is the contention of the learned counsel for the petitioner that the petitioner neither submitted any resignation voluntarily nor received any notice or dismissal order from the Bank. The bank officials acted in a very casual and discriminatory manner. No notice is served on the petitioner and the bank acted unilaterally by publishing a circular including the petitioner's name under voluntary cessation of employment and there was no act of voluntary resignation by the petitioner.



W.P.No.41069 of 2015

5. The learned counsel for the respondents filed counter affidavit. It is averred that on 11.05.2006 the Bank had released a Circular on “Samadhan Scheme”. On transfer requests of award staff, Bank has entered into a settlement under ID Act. According to the respondent Bank, such application for request of transfer was made by the petitioner which request will be considered as per the settlement only.

6. The respondent-Bank would submit that from March 2007 onwards, without any permission or proper prior intimation, the petitioner had unilaterally stopped attending office. In terms of the Bi-partite settlement, the Bank issued two notices dated 26.06.2008 and 06.08.2008 asking the Petitioner to return to work, which were returned to the Bank marked “Not claimed/returned to Sender”. Again a letter (3rd notice) was sent to the petitioner's residence directly by the Branch, asking him to report for work within 30 days. As there was no reply from the petitioner, considering petitioner's case of voluntary abstention from attending office under unauthorized absence, the Bank was constrained to invoke the provisions under the 8th Bipartite Settlement and as per



W.P.No.41069 of 2015

procedure, treated his action as Voluntary Cessation and issued necessary Circular Order on 10.01.2019. The petitioner had not challenged the Bank action in any manner till the date of filing the writ petition. It is submitted that the petitioner remained unauthorisedly absent and after the Bank passed the orders, decided to challenge it by way of this writ petition.

7. The respondent-Bank submitted that the Bank has contemplated action including attachment of salary for various dues of the petitioner as ordered by various forums. The Bank was informed by the Bank of India that suit in O.S.No.36/2000 had been ordered against the petitioner attaching the salary of the employee for an outstanding amount Rs.7,84,238/- as on that date. Another E.P.No.252/2005 in O.S.No.555/2004 for recovery of Rs.68,421/- in O.S.No.5459 of 1998 was pending for delivery of the title deeds in Home Loan account and the petitioner evaded all these issues.

8. It is further averred by the respondent-Bank that the petitioner



W.P.No.41069 of 2015

applied for permission to join Ph.D and also applied for transfer but was not accorded with such permission, but such transfers are subject to need of the Bank and are decided by the Management as per the provision of the Settlement and cannot be claimed as a matter of right by any employee to any place he or she wishes. The Banks also clarified in the counter affidavit that Samadhan Scheme was launched for addressing grievances and not a transfer mechanism and therefore, the petitioners claim that he had applied for transfer under the scheme is entirely misleading and is not tenable. It is submitted that the Bank had followed all applicable procedures and there was no discriminatory or casual behaviour in the act by the Bank. But the petitioner had deserted from work without any proper permission. The Bank had not unilaterally taken away any of the rights of the Petitioner who had put in more than 20 years of service and was aware of his rights and responsibilities. It is because the petitioner himself landed in a position where he had to be treated as to have voluntarily ceased from work voluntarily abandoned the job.



W.P.No.41069 of 2015

9. Learned counsel for the petitioner in support of his submissions the petitioners is entitled to the option exercised by him and the attendant benefits, cited an unreported decision of this court in W.P.No.15657 of 2011 dated 27.01.2020 [V.Ramarathinam vs. Punjab National Bank, rep. By its Assistant General Manager (HRD)/Disciplinary Authority and others].

10. Heard both sides and perused the materials available on record.

11. In the decision referred by the counsel for the petitioner, in paragraph 14, this court observed that the punishment order of removal from service was issued prior to the Bipartite Settlement dated 10.04.2002. But in the present case, the impugned Circular is dated 10.01.2009, that is after Bipartite Settlement, whereby the voluntary cessation of employment of Award of the petitioner was shown as 18.09.2008. In the counter affidavit, it has been submitted by the respondents that since there was no reply from the petitioner and he has not reported to duty, the Bank vide Circular dated 10.01.2009 terminated



W.P.No.41069 of 2015

the employment of the petitioner through Voluntary Cessation of Employment.

12. A perusal of records would go to show that from March 2007 onwards, without any permission or proper prior intimation, the petitioner had unilaterally stopped attending office. The Bank issued two notices dated 26.06.2008 and 06.08.2008 asking the petitioner to return to work. The said notices were returned to the Bank as “Not claimed/returned to Sender”. Even the 3rd notice sent to the petitioner's residence directly by the Branch, asking him to report for work within 30 days, had no fruitful result. There was no reply from the petitioner. Therefore, for the unauthorized absence, the Bank was constrained to invoke the provisions under the 8th Bipartite Settlement and as per procedure, treated the action of the writ petitioner as Voluntary Cessation and issued impugned order on 10.01.2019. It is relevant to note that the petitioner has not challenged the said impugned order before the authorities concerned, till the date of filing the writ petition. It is submitted that the petitioner remained unauthorisedly absent and after



W.P.No.41069 of 2015

the Bank passed the impugned order, decided to challenge the same by way of this writ petition.

13. We do not find any merit in the arguments raised by the learned counsel for the petitioner. The Bank had followed procedures and after issuing notice to the petitioner who deserted from work and affording sufficient opportunity, found that the petitioner voluntarily abandoned the job and therefore, issued impugned order dated 10.01.2009. This court do not find that the petitioner has made out any case for interference against the impugned order passed by the third respondent and therefore, the petitioner is not entitled to the relief sought for by him. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.01.2023

Index: Yes/No

Speaking/Non-speaking order

nvsri

To

1. The Chairman cum Managing Director

Indian Bank, Head Office, Avvai Shanmugam Salai



W.P.No.41069 of 2015

Royapettah, Chennai-600 014

2.The General Manager,Indian Bank Corporate Office
Avvai Shanmugam Salai
Royapettah, Chennai-600 014

J.NISHA BANU, J.

nvsri

3.The Assistant General Manager
HRM Department
Indian Bank, Head Office
Avvai Shanmugam salai
Royapettah, Chennai-600 014

W.P.No.41069 of 2015

06.01.2023