IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.23930 of 2021
and
W.M.P.Nos.25260 & 25262 of 2021

P.Amritraj ... Petitioner

versus

1.The CEO & Managing Director,
Canara Bank H.O.,
Industrial Relations Section,
Human Resources Wing,
No.112, J.C.Road,
Bangalore - 2.

2.The General Manager,
Canara Bank H.O.,
Human Resources Wing,
Industrial Relations Section,
No.112, J.C.Road,
Bangalore - 2.

3.The Asst. General Manager,
Canara Bank H.O.,
Human Resources Wing,
Industrial Relations Section,
No.112, J.C.Road,
Bangalore - 2. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 19.03.2019 in HRW IRS 228 821, 2019 on the file of the 3rd respondent and quash the same, directing the respondents to extend the benefits of additional qualifying service for pension, by revising the pensionable service of the petitioner by adding 3 years and 11 months to his service under Regulation 26 (c) of Canara Bank (Employer) Pension Regulations, 1995, w.e.f. 01.05.2009 with an interest of 18% for the unpaid arrears.

For Petitioner	:	Mr.Father Xavier Senior Counsel for M/s.Father Xavier Associates
For Respondents	:	Mr.S.Raghavan for M/s.T.S.Gopalan & Co.

ORDER

The petitioner has been recruited as a Law Officer and had retired on 30.04.2009 on superannuation as Assistant General Manager has filed this Writ Petition seeking to extend the benefits of additional qualifying service for pension, by reversing pensionable service of the petitioner by adding 3 years and 11 months to his service under Regulation 26 (c) of Canara Bank (Employer) Pension Regulations, 1995 with effect from 01.05.2009 with an interest @ 18%.

2. Heard Mr.Father Xavier, learned Senior Counsel for the petitioner, Mr.S.Raghavan, learned counsel for the respondents and perused the materials available on record.

3. Mr.Father Xavier, learned Senior Counsel for the petitioner submitted that the petitioner would come within the ambit of Regulation 26(c) of Canara Bank (Employer) Pension Regulations, 1995 [hereinafter referred to as "Regulation 26(c)"] by virtue of his age at the time of recruitment. It is further submitted that similarly placed persons have been given with the benefit of qualifying service for the purpose of getting full pension and the Courts have been liberal in interpreting Regulation 26(c).

4. Mr.S.Raghavan, learned counsel for the respondents' Bank submitted that the petitioner had been recruited only under the category of SC/ST because in the application itself the petitioner has stated that his age is 31 years which is above the maximum age of 30 years for general category. The 5 years of age relaxation for law officers in the category of SC/ST has been given. The petitioner has rightly availed the said benefit and there is no quarrel on that score. But, he claims that Regulation 26(c) is relevant to the appointment to the post of law officer from the category of SC/ST. In support of his contention, the learned Senior Counsel for the petitioner relied on the following judgments:-

"**(i)** *Union of India Vs. S.Dharmalingam (1994) 1 SCC 179*

(ii) *P.Thirikooda Rajappan Vs. Chairman and Managing Director [2005 (1) LLN 847]*

(iii) *V.Vijayan Vs. The Chairman and Managing Director, Bank of Baroda [LNIND 2014 Mad 587]*"

5. For the sake of clarity, Regulation 26 of Canara Bank (Employer) Pension Regulations, 1995 is extracted as under:-

*"**26.** **<u>Addition to qualifying service in special circumstances</u>**:-*

An employee shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded the upper age limit specified by the Bank for direct recruitment or a period of five years, whichever is less, if the service or post to which the employee is appointed is one, *(a) for which post-graduate research, or specialist qualification or experience in scientific, technological; or professional fields, is essential; and*

(b) to which candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited:

(c) for which the candidate was given age relaxation over and above the maximum age limit fixed by the Bank on account of his possessing higher qualifications or experience:

Provided that this concession shall not be admissible to an employee unless his actual qualifying service at the time he quits the service in the Bank is not less than ten years:

Provided further that this concession shall be admissible if the recruitment rules in respect of the said service or post contain specific provision that the service or post is one, which carries benefit of this regulation:

Provided also that the recruitment rules in respect of any service or post which carries the benefit of this regulation shall be made with the approval of the Central Government."

6. So as per the above Regulation an employee is eligible to get the addition for qualifying service to the extent of

*"**(i)** the actual period not exceeding 1/4th of the length of his service*

(ii) *the actual period by which his age at the time of recruitment exceeded the upper age limit specified by the Bank for direct recruitment*

(iii) *for a period of 5 years."*

7. However, the said benefit is given to those employees who have been appointed to the post which requires the post-graduate research, or any specialist qualification or any experience in scientific, technological or professional fields. The second condition would be that he should be in the post which would permit upper age relaxation for any specified category through direct recruitment and due to which a candidate has been given with the age relaxation over and above the maximum age limit fixed by the Bank, in view of his possessing of the higher qualifications or experience.

8. Even though the petitioner has claimed the benefit under Regulation 26(c), the petitioner appears to be falling under Regulation 26(b) only in view of his appointment by getting age relaxation of one year. The petitioner is entitled to the above age relaxation because he belonged to SC/ST category. Admittedly the upper age limit for general category is 30 and the post for which the petitioner got recruited had permitted the age relaxation for SC/ST category.

9. Since the petitioner falls under Regulation 26(b), the petitioner cannot get the benefit under Regulation 26(c) which is available to the candidates belonging to the general category and for whom, no age relaxation was given. The petitioner has completed 28 years of service. Even if 26(b) is applied, the petitioner is entitled to the maximum of 5 years relaxation.

10. Since he was 31 years at the time when he was recruited, he got a relaxation for one year and there is a residuary of 4 years and that can be given for his benefit. Regulation 26 would prescribe three situations and among which the less should be preferred to be considered as additional qualifying service.

11. The residuary of 4 years when compared to the other option is less. So, I feel it is appropriate to add 4 more years as the additional qualifying years for the petitioner. In such case, the petitioner's total years of service would come to 32 years and he will be eligible to get full pension.

12. In the result, this Writ Petition is **disposed** and the respondents are directed to fix full pension for the petitioner w.e.f. 01.05.2009, within a period of eight (8) weeks from the date of receipt of a copy of this order and disburse the arrears of pension at the earliest. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.12.2023

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

sri

R.N.MANJULA, J.

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