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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.29863 of 2022

T. Govindaraj ... Petitioner

versus

1. UCO Bank,
   Personnel Services Department,
   Pension Cell, Kolkotta - 700064
   Rep.by its General Manager.

2. UCO Bank,
   Head Office,
   Personnel Services Department,
   Kolkotta - 700064
   Rep.by its Deputy General Manager.

3. UCO Bank,
   Zonal Office, Bengaluru,
   Karnataka State,
   Rep.by its Zonal Manager.

4. UCO Bank,
   Service Branch, Thambu (C) Street,
   Chennai – 600001.
   Rep.by its Chief Branch Manager. ... Respondents

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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent pertaining to his order made in No.2022-23/197 dated 19.10.2022 and quash the same, consequent to direct the respondents to pay pension and commutation amount with interest for the arrears of said amount applicable to CPF account to the petitioner.

For Applicant : Mr. R. Malaichamy

For Respondents : Ms. Aishwarya

ORDER

This Writ Petition has been filed to quash the Order of the 2nd Respondent in No.2022-23/197 dated 19.10.2022 and to direct the respondents to pay pension and commutation amount with interest.

2. The Writ Petitioner was working as Chief Manager in the 4th Respondent's Bank. He has rendered 40 years of service in the Respondents bank. Though the petitioner did not opt for pension as per instructions of their Association in the year 1993, in the year 2010 as per the settlement reached between the Banks and Unions another pension option was given to those non-optees with a load of 2.8 times of basic pay as on November

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2007. Accordingly, petitioner opted to join the pension scheme vide his option dated 04.10.2010. As per the Option Form Annexure-I he has authorised the competent authority to recover the amount equal to 2.8 of his revised pay for the month of November 2007 from his arrears payable to him on account of wage revision dated 27.04.2010. After such option, Petitioner was brought to the Pension Scheme with certain conditions.

3. The Petitioner was retired on 30.06.2022 and the retirement benefits were settled except pension and commutation. Hence the Petitioner made a representation and the same has not been considered. Despite the earlier order of this Court in W.P.No.24624 of 2022 dated 27.09.2022, the Petitioner claim has been rejected. Challenging the same the present writ petition is filed.

4. It is the contention of the Respondent that though the Petitioner submitted relevant form on 04.10.2010 and expressed his intent to opt for the pension scheme circular No.CHO/PMG/18/2010-11 and the Petitioner authorised the Respondent bank to transfer the pension fund an amount

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equivalent to 2.8 times of his revised pay for the month of November 2007 i.e., Rs.88,200/- from and out of the settlement received on account of arrears of wage revision. However at the time of exercising the option the Petitioner did not have sufficient funds in his account for transferring the Pension Contribution. From 04.10.2010 to 18.10.2010, the Petitioner's account did not have sufficient funds for debiting the Pension Contribution as required under the Pension Scheme. Petitioner in fact, received a sum of Rs.1,14,790.14 towards the arrears of wage revision in terms of the Bipartite Settlement /Joint Note on 09.07.2010 in the Petitioner's Savings Bank Account, the said sum was immediately withdrawn by the Petitioner on 10.07.2010 the very next day. Therefore the amount towards the contribution was never available in his account. As the Petitioner did not pay the amount nor contributed towards the Pension fund he is not entitled for benefit under the scheme. Hence, opposed the writ petition.

5. Learned counsel appearing for the Petitioner would submit that as the Petitioner has opted to join the Pension Scheme by his option dated 04.10.2010 wherein he has authorised the Respondent Bank to recover an

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amount equal to 2.8.times of his revised pay from his arrears paid to him. It is his further contention that the pay slip issued to the Petitioner would also indicate that the Petitioner had opted for Pension Scheme as per the settlement dated 27.04.2010. Despite that authorisation the Respondent has not deducted the amount towards pension contribution. Hence, according to him since the petitioner joined the pension scheme he is entitled to pension benefits.

6. Learned counsel appearing for the Respondents would submit that it is mandatory as per the Pension Scheme to pay the contribution. Though the writ petitioner opted to such scheme on 04.10.2010, he has not contributed any single pie. Though he has authorised the bank to recover the contribution from his arrears, entire arrears have been received and credited in Savings Bank and withdrawn by the Petitioner in the very next day. Therefore, the account did not have sufficient fund towards contribution. Hence his contention is that the scheme is applicable only to the person who made contribution to claim pension. As the writ petitioner has not paid any amount towards contribution, he is not entitled to claim

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pension.

7. I have perused the entire materials. It is not in dispute that the Petitioner has opted for the Pension scheme on 04.10.2010. In the Annexure-I filled by the Petitioner makes it clear that he has signed in the application and also authorised the bank to transfer the pension fund an amount equal to 2.8 times of his revised pay for the month of November 2007 representing his share in the 30% contribution mentioned above from the arrear payable to him on account of wage revision in terms of Bipartite Settlement/Joint Note dated 27.04.2010. Though he has authorised the bank to transfer the arrear amount, the fact remains that on 04.10.2010 to 18.10.2010 at that time the writ petitioner opted for th Pension Scheme, he did not have sufficient funds in his account for debiting the Pension Contribution.

9. It is the specific case of the Respondent that the wage revision arrears have been paid to the Petitioner on 09.07.2010 and the same has been credited in the account on 09.07.2010, the very next day i.e., on

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10.07.2010 the said sum was withdrawn by the petitioner. It has not been seriously disputed and records also filed to show that at the relevant point of time when the petitioner opted for pension scheme, he did not have sufficient amount to deduct the sum of Rs.88,200/- for pension contribution. Therefore this Court is of the view when the person seeking to avail the benefit under the special scheme of pension ought to have been very careful to see that the relevant contribution has been paid into his account.

10. The Petitioner is retired as a Chief Manager. Therefore, he ought to have been very vigilant to see that proper contribution has been paid regularly for claiming pension under the scheme which has not done so, and scheme was vaild only from 04.10.2010 to 18.10.2010 as per the Counter affidavit. The Circular No.CHO/PMG/18/2010-11 dated 20.08.2010 is also relied upon by the Respondents. When the petitioner is aware of the scheme and the amount has not paid as a contribution within the time stipulated in the scheme, now he cannot contend that merely on the basis that he has authorised his bank to recover the contribution from the arrears of pay

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revision he entitled to claim pension. It is relevant to note that the wage revision arrears withdrawn by him even before signing the Annexure-I Declaration.

11. In such a view of the matter I do not find any merit in this Writ Petitioner. Accordingly, the Writ Petition is dismissed. No costs.

04.07.2023

ggs

1. The General Manager.
   UCO Bank, Personnel Services Department,
   Pension Cell, Kolkotta - 700064

2. The Deputy General Manager.
   UCO Bank, Head Office,
   Personnel Services Department,
   Kolkotta - 700064

3. The Zonal Manager, UCO Bank,
   Zonal Office, Bengaluru,
   Karnataka State,

4. UCO Bank,
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   Chennai – 600001.

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