BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16551 of 2020

T.Jeevanandam ... Petitioner

Vs.

1.The Chairman,
Tamilnadu Grama Bank (TNGB),
Head Office, 6, Yercaud Road,
Hasthampatti Post,
Salem - 636 007.

2.The General Manager,
Tamilnadu Grama Bank (TNGB),
Head Office, 6, Yercaud Road,
Hasthampatti Post,
Salem - 636 007.

3.The Chief Manager,
Tamilnadu Grama Bank (TNGB),
Local Office,
Human Resources Management,
2-70-1, Collectorate Complex,
Virudhunagar 626 002. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in HRM/LO/06/2019-20 dated 10.06.2019 on the file of the 3rd respondent and quash the same as illegal arbitrary and abrupt violation of Article 14 and consequently to direct the respondents to grant pension as per the Pandyan Grama Bank (Employees') Pension Regulations, 2018 and also to inform the amount of employers contribution to the provident fund to be refunded and to settle leave encashment and other consequential monetary benefits.

For Petitioner : Mr.C.Masilamani

For Respondents : Mr.N.Dilipkumar,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The petitioner joined Pandyan Grama Bank (now Tamilnadu Grama Bank). He was working as Manager (Scale – II). He was issued with a charge memo in the year 2011. Enquiry was conducted and punishment of compulsory retirement was imposed on him vide order dated 30.04.2015 by the disciplinary authority. A day earlier, an additional charge sheet had also been served on the petitioner. However, the petitioner was allowed to retire on the advice of the competent authority without prejudice to the rights of the employer to take further proceedings on the additional charge sheet. In the year 2018, pension regulations were introduced. The petitioner claimed pensionary benefits under the said regulations. The petitioner's request was rejected on two grounds. Challenging the same, the present writ petition came to be filed.

2.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

3.The respondents have filed a detailed counter affidavit and also typed set of papers and the learned standing counsel took me through their contents. The learned standing counsel submitted that the petitioner is not entitled to relief because he went out of the service of the Bank on 30.04.2015 itself. Whereas the pension regulations came into the effect only on 01.04.2018. In other words, a person who has retired prior to the effective date cannot claim the benefits under the regulations. His main contention is that since the petitioner was visited with the penalty of compulsory retirement and an additional charge sheet had also been issued, this Court ought to sustain the impugned communication. He pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. The question whether a person who retired prior to the effective date is entitled to invoke Pandyan Grama Bank (Employees') Pension Regulations, 2018 cannot be in doubt in view of Rule 32. It reads as under:-

> *"32.* ***Payment of pension or family pension in respect of certain employees.****- (1) An employee who was in service between 1st day of September, 1987 and 31st day of March 2010 and retired from the service of the Bank before 31st day of March, 2018 shall, subject to the provisions of these regulations, be eligible for payment of pension from the effective date.*
>
> *(2) The family of a deceased employee, who was in service between the 1st day of September, 1987 and 31st day of March 2010 and died before the 31st day of March, 2018 shall, subject to the provisions of these regulations, be eligible for payment of family pension from the effective date."*

Therefore, the fact that the petitioner retired prior to effective date cannot come in the way of the petitioner from claiming pensionary benefits.

5.The petitioner was admittedly not removed or dismissed from service. He was compulsorily retired. A person who has been compulsorily retired should also be considered only as a retired employee. I take judicial notice of the fact that a person who has suffered compulsory retirement is also given pensionary benefits, though at a reduced scale. Rule 31 of the Pension Regulations is as follows:-

> "31.***Compulsory retirement pension.****- An employee compulsorily retired from service as a penalty, on or after the effective date, in terms of the Service Regulations, may be granted by the authority higher than the authority competent to impose such penalty, pension at a rate not less than two-thirds and not more than full pension admissible to him on the date of his compulsory retirement, if otherwise he was entitled to such pension on superannuation, on that date:*
>
> *Provided that where the pension awarded under this regulation is less than the full pension admissible under these regulations, the Board of Directors shall be consulted before such order is passed."*

The aforesaid pension regulations do not disqualify a person who had been compulsorily retired prior to the effective date. The petitioner of course is entitled to payment of pensionary benefits only from the effective date. The learned counsel for the petitioner would strongly urge that the petitioner must be directed to be paid full pension.

6.I am not in a position to agree with this contention. A person who has been compulsorily retired cannot be placed on the same footing as that of a person who regularly retired on reaching the age of superannuation. If I agree with the contention of the learned counsel for the petitioner, a person who was compulsorily retired before the effective date will get full pension, while the person who was compulsorily retired after the effective date will be subject to the operation of Rule 31. This in my view would be clear infraction of the equality principle.

9.While I hold that the petitioner is entitled to pension, the quantum of pension has to be quantified only by the second respondent. The second respondent shall take note of the policy underlying Rule 31 and pass final order regarding the petitioner's entitlement within a period of six weeks from the date of receipt of a copy of this order. The amount payable to the petitioner will be disbursed within a period of six weeks thereafter. If the petitioner has to exercise any option, the petitioner shall be given an opportunity to do so.

10.The order impugned in this writ petition is set aside and the writ petition is partly allowed. No costs.

13.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.16551 of 2020

13.03.2023