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W.P.No.13546 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM :  
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

**Writ Petition No.13546 of 2020**

M.Natarajan

... Petitioner

Vs.

1.The Zonal Manager,  
Southern Zone,  
No.30/7, Errabalu Street,  
Chennai – 600 001.

2.The Manager,  
Bank of India,  
Elakkurichi Branch,  
Ariyalur District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relates to the impugned Communication dated 10.03.2016 vide Re.No.CZO:HRD:KSR:2015-16:4468 and consequential communication dated 16.05.2020 vide Ref.No.CZO:HRD:SS:1790 issued by the first respondent and quash the same as illegal and consequently direct the respondents to fix the petitioner basic salary at Rs.1039/- instead of Rs.815/-

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last pay drawn by him in the defence service and sanction incremental benefits, and other revised service benefits and retirement benefits applicable to the petitioner.

For Petitioner : Mr.A.V.Raja

For Respondents : Mr.J.Saravanel

### **ORDER**

This writ petition has been filed to call for records relates to the impugned Communication dated 10.03.2016 vide Re.No.CZO:HRD:KSR:2015-16:4468 and consequential communication dated 16.05.2020 vide Ref.No.CZO:HRD:SS:1790 issued by the first respondent and quash the same as illegal and consequently direct the respondents to fix the petitioner basic salary at Rs.1039/- instead of Rs.815/- last pay drawn by him in the defence service and sanction incremental benefits, and other revised service benefits and retirement benefits applicable to the petitioner.

2. The case of the petitioner is that after completing his service in the battalion from 25.03.1971 to 1986, the petitioner was appointed as sub staff



and joined duty as a Security Guard in the respondent bank on 21.03.1990 under the Ex-serviceman re-employment scheme and later promoted as clerk and as a cashier. After completing his 23 years of service, he attained the age of superannuation and retired from service on 31.05.2013. During his tenure in the respondent bank his pay fixation was fixed as Basic Pay plus Dearness allowance drawn by the petitioner in the armed force prior to retirement/retrenchment which, was prescribed and notified by the Bank of India Circular issued to the all Indian Branches vide Branch Circular No.81/22/Personnel/87/3 dated 28.01.1987.

2.1. As per the said circular dated 28.01.1987, it has been clarified that ex-servicemen, who are re-employed in the branches are fixed with pay fixation of Basic Pay plus Dearness Allowance (Basic Pay + DA) drawn by them in the armed force, at the time of retirement/retrenchment. However, the same was denied to the petitioner and he was fixed with the basic pay of Rs.815/- instead of Rs.1039/-. Hence, he made repeated request to the respondent bank for pay fixation of the salary. However, the said representations were not considered by the respondents. Hence, he filed a



writ petition before this Court in W.P.No.3206 of 2015, seeking direction to the respondents to fix the petitioner's basic salary at Rs.1039/- instead of Rs.815/- and this Court vide its order dated 25.11.2015 directed the respondents to consider the petitioner's representation dated 16.04.2014 and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and further directed to communicate the decision taken by the respondents to the petitioner. However, the first respondent rejected the petitioner's claim and denied the revised pay fixation vide order dated 10.03.2016 and consequently passed another dated 16.05.2020. Aggrieved over the said orders, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner submitted that the Ministry of Finance issued guidelines with regard to alleged discrimination of fixation of pay in the ex-serviceman re-employment scheme in the public sector banks and directed all the banks to follow and given benefit to the people, those who have retired after 01.01.2006 are entitled to the revised pay fixation to the employees. However, the petitioner has not been given either pay



fixation or benefit under the guidelines and hence it is clear discrimination to the petitioner.

4. Learned counsel appearing for the respondents would submit that the petitioner was granted appointment by the respondent bank by order dated 21.03.1990 with the Basic Pay of Rs.815/- and Dearness Allowance of 360.39/- apart from House Rent Allowance of Rs.59.54/- as per the rules in force. It is pertinent to note that the pay of the ex-servicemen, who are re-employed are governed by Circular No.81/22 dated 28.01.1987. The clauses which will be applicable to the petitioner are Clause IV read with Clause IV(d) which are reproduced as follows :-

**IV. The fixation of pay of the ex-serviceman who joined the Bank on or after 1.7.1983:**

The pay fixation should be done on the basis of protection of pay drawn in the Armed Forces or at a stage where the new Basic Pay plus Dearness Allowance Corresponds to the Basic Pay plus Dearness Allowance drawn by him in the Armed Forces whichever is higher.

**IV (d). Ex-Servicemen who joined the Bank's service on or after 1.7.1983.**



"The pay fixation in the case of ex-servicemen, who joined the Bank's service in the workmen cadre on or after 1.7.1983 may be made on the basis of protection of pay drawn in the armed forces or at a stage where the new Basic Pay plus Dearness Allowance corresponds to the Basic Pay plus Dearness Allowance drawn by them in the Armed Forces, whichever is higher. Similarly, the pay fixation in the case of ex- servicemen who joined the Bank's service in the officer's cadre on or after 1.2.1984 may be made on the basis of protection of pay drawn in the Armed Forces or at a stage where the new Basic Pay plus Dearness Allowance corresponds to the Basic Pay Plus Dearness Allowance drawn by them in the Armed Forces, whichever is higher."

5. Learned counsel appearing for the respondents would further submit that the petitioner's last drawn basic pay as per Last Pay Certificate was Rs.1039/-. The petitioner was not granted Dearness Allowance in the Armed Forces and he was appointed in the respondent bank in the workman category of armed guard on the basic pay of Rs.815/- and Dearness Allowance of Rs.360.39/- totaling to a sum of Rs.1175/- which is higher than the last drawn



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basic pay of Rs.1039/- of the petitioner, while he was serving in the Madras Regiment of Indian Army.

6. Learned counsel appearing for the respondents would further submit that as per the circular dated 28.01.1987, the ex-serviceman re-employed pay fixation has to be fixed as Basic Pay plus Dearness Allowance drawn by him in the armed force at the time of retirement. That has been done in the case of the petitioner.

7. Learned counsel appearing for the respondents would further submit that the comparison of the petitioner with another employee viz., D.Bose, who joined the bank before him and whose pay was fixed as Rs. 1039/- is totally an erroneous submission as, firstly the date of joining of the said employee, namely D. Bose is 05.10.1987, which is well before the date of joining of petitioner, which is 20.04.1990. Also, since the last drawn pay of the said employee was Rs.1039/- and so, on the date of joining the respondent bank on 05.10.1987, he was granted basic pay of Rs.560/- and Dearness Allowance of Rs.530.88/- totaling Rs.1090.88/- which is as per the



IV Bipartite settlement, which was in force when D.Bose joined the Bank.

Subsequently V Bipartite settlement was signed on 10.04.1989, with salary benefits w.e.f 01.11.1987. Hence, according to arrears calculation, as per V Bipartite settlement, the Basic Pay of D.Bose was fixed at Rs.1015/- on 24.03.1990. Whereas, petitioner joined the Bank on 20.04.1990, when the V Bipartite settlement was already in force and his Basic Pay was fixed at Rs.815/- according to the norms of the V Bipartite settlement and the circular dated 28.01.1987.

8. Learned counsel appearing for the respondents would further submit that as per the 'Branch Circular No.81/22/Personnel/87/3 dated 28.01.1987, pay fixation for ex-serviceman is to be made on the basis of 'Last Pay Certificate' (LPC) of the armed forces. In this case, when he left the armed service; the DA was not in vogue. As per LPC, his last drawn pay was Rs. 1069/- (Basic pay of Rs 1039/- and Class Pay of Rs.30/-), whereas, the respondent Bank has fixed his pay at Rs.1175.39/-which is more than the last pay drawn by him at 'Armed Forces'. It is to be noted that the petitioner had retired from service of 'Armed Forces' prior to July 1986. The petitioner's pay fixation was done as per the extant guidelines as issued by IBA. The



circular clearly states that the 'Basic Pay and Dearness Allowance' for the ex Serviceman is to be protected at the time of fixation of his/her pay while joining the services of the bank. The pay fixation circular states that the fixation of pay is to be done PROTECTING the pay drawn by him in the armed forces. In this case, the pay fixation is more than the payment as drawn by him in the services of the armed forces. The petitioner's increment was released from time to time. The petitioner rendered his services with the respondent bank within the ambit of the prevailing and existing rules and regulations only.

9. Learned counsel appearing for the respondents would further submit that the Clause III of the circular dated 28.01.1987 is not applicable to the petitioner and only Clause IV read with Clause IV(d) of the circular will be applicable to the petitioner for the simple reason that the Clause III that the petitioner is seeking to rely on is only for the purpose of fixation of basic pay of ex- servicemen who have joined the bank's service on and after 25.01.1983. Clause IV clearly states that it is for the fixation of pay of the ex serviceman who joined the bank on or after 01.07.1983. Since the petitioner has joined the Respondent bank on 20.04.1990, Clause IV only will be



applicable and not Clause III. Similarly Clause IV(d), which is with respect to the clarifications issued by the Indian Banks Association on the subject of pay fixation of ex-servicemen re-employed in public sector banks, will be applicable since the said Clause IV(d) is for ex servicemen who joined the bank's service on or after 01.07.1983. Clause IV(d) also states that the pay fixation in the case of ex servicemen who joined the bank's service in the workmen cadre after 01.07.1983 may be made on the basis of protection of pay drawn in the armed forces or at a stage where the new basic pay plus dearness allowance corresponds to the basic pay plus the DA earned by them in the armed forces whichever is higher.

10. Heard the learned counsel on either side and perused the materials available on record.

11. The petitioner joined the respondent's bank on 21.03.1990 and at the time, the Bank of India issued circular to all the branches vide Branch Circular No.81/22/Personnel/87/3, dated 28.01.1987 in regard to the fixation of Basic Pay plus Dearness Allowance drawn by the person in the armed



force prior to retirement/retrenchment and the same is applicable to the petitioner, since he joined the aforesaid post in the respondent's Bank after the date of circular i.e., 21.08.1990.

12. The petitioner instead of relying on the above Bank Circular, he relied on the communication of IBA (HR and Relation vide HR8/1R/CIR/2013-14/589/8764 dated 30.01.2014, which is addressed to all the Chief Executives of Public Sector Banks in regard to pay fixation of Ex-servicemen Re-Employed in Public Sector Banks and the relevant portion of the said communication is extracted hereunder:

*"4. As desired by DFS, a "draft" guidelines to be issued to PSBs was sent to the DFS vide our letter dated 27th August, 2013 for their examination and their approval.*

*5. Now, the Ministry of Finance, DFS, vide their letter dated 30th December, 2013 (copy enclosed), has advised that the draft guidelines prepared by IBA generally appear in order. However, before issue of these guidelines to all PSEs, it is desirable to ensure that no decision is contradictory to established Government Policy and that none of these are violation of DOPT or Ministry of Defence (MOD)/Ministry of Finance instructions on this subject.*

*6. Draft guidelines, approved by the Ministry of Finance, Department of Financial Services with some suggestions were put up to the Management Committee of IBA at its meeting held on*



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*28.1.2014 for approval. The Committee has approved these guidelines as per annexure enclosed for compliance by Banks.*

***All the Banks are therefore advised to implement these guidelines regarding pay fixation of ex-servicemen on their re-employment on or after 1.1.2006."***

13. The petitioner is well aware that his basic pay was fixed at Rs.815/- at the time when he joined the respondent's bank i.e., on 21.03.1990 after completing his service in the armed force. The basic pay was fixed to the petitioner at Rs.815/- based on the circular dated 28.01.1987 and this circular was in force at the time of petitioner joining the respondent bank in the year 1990. Hence, this circular is applicable to the petitioner in regard to fixation of basic pay and not the communication of IBA dated 30.01.2014.

14. The reason given by the respondent bank in rejecting the request of the petitioner to fix his salary at Rs.1039/- is based on the last pay drawn certificate dated 28.11.1990 issued by the Madras Regimental Abhilekh Karyala V bipartite settlement which was in force at the time of the petitioner joined the respondent bank service. Accordingly, the basic pay was fixed for the petitioner at Rs.815/- and it is further stated in the rejection order that the basic pay in the case of armed guards will be increased from year to year in



terms of Bipartite settlement and will vary from staff to staff depending upon the years of service in Respondent bank. It is pertinent to extract the relevant clause in Circular No.81/22 dated 28.01.1987 which reads as follows:

**IV: The fixation of pay of the ex-serviceman, who joined the Bank on or after 1.7.1983:**

*The Pay fixation should be done on the basis of protection of pay drawn in the Armed Forces or at a stage where the new Basic Pay plus Dearness Allowance corresponds to the Basic Pay plus Dearness Allowance drawn by him in the Armed Forces whichever is higher.*

*We have received certain clarifications from Indian Bank's Association on the subject of pay fixation of ex-serviceman re-employed in Public sector Banks which are reproduced here below:-*

**IV (d) Ex-serviceman who joined the Bank's service on or after 01.07.1983:**

*The pay fixation in the case of ex-servicemen, who joined the Bank's service in the workmen cadre on or after 01.07.1983 may be made on the basis of protection of pay drawn in the armed forces or at a stage where the new Basic Pay plus Dearness Allowance corresponds to the Basic Pay plus Dearness Allowance drawn by them in the Armed Forces, whichever is higher. Similarly, the pay fixation in the case of ex-servicemen who joined the Bank's service in the Officer's cadre on or after 01.02.1984 may be made on the basis of protection of pay drawn in the Armed Forces or at a stage where the new Basic Pay plus Dearness Allowance corresponds*



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*to the Basic Pay plus Dearness Allowance drawn by them in the Armed forces, whichever is higher. After fitment is above, he will be given notional increments in the time scale upto 31.03.1980 and his revised Basic Pay will be given effect to only from 01.04.1980.”*

**15. The petitioner superannuated from the respondent bank on 31.05.2013 and it is also pertinent to note that the petitioner's last drawn salary in the armed force as per his last pay certificate is Rs.1039/- and the petitioner was not granted Dearness Allowance in the armed force. The petitioner was appointed in the respondent bank in the workmen category of armed guard on the basic pay of Rs.815/- and Dearness Allowance of Rs.360.39/- totalling Rs.1175/- which is higher than the last drawn basic pay of Rs.1039/- in the armed force. The pay fixation was done in the case of Ex-servicemen re-employed with basic pay plus Dearness Allowance drawn by them in the armed force at the time of retirement.**

16. The comparison of the petitioner with another employee viz., D.Bose, who joined the bank before him and whose pay was fixed as Rs.



1039/- is totally an erroneous submission as, firstly the date of joining of the said employee, namely D. Bose is 05.10.1987, which is well before the date of joining of petitioner, i.e., 21.03.1990. Since the last drawn pay of the said employee was Rs.1039/- and so, on the date of joining the respondent bank on 05.10.1987, he was granted basic pay of Rs.560/- and Dearness Allowance of Rs.530.88/- totaling Rs.1090.88/- which is as per the IV Bipartite settlement, which was in force when D.Bose joined the Bank. Subsequently V Bipartite settlement was signed on 10.04.1989, with salary benefits w.e.f 01.11.1987. Hence, according to arrears calculation as per V Bipartite settlement, the Basic Pay of D.Bose was fixed at Rs.1015/- on 24.03.1990. Whereas, the petitioner joined the Bank on 21.03.1990, when the V Bipartite settlement was already in force and his Basic Pay was fixed at Rs.815/- according to the norms of the V Bipartite settlement and the circular dated 28.01.1987.

17. In regard to the communication of IBA dated 30.01.2014, it is clearly mentioned that all the banks were advised to implement the guidelines mentioned in the said communication regarding pay fixation



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**of Ex-servicemen on the re-employment on or after 01.01.2006 and in this case, the petitioner has joined the service of security guard under the second respondent on 21.03.1990, which is much prior to the date of communication. Hence, the above said communication is not applicable to the petitioner. The Circular dated 28.01.1997 alone is applicable to the petitioner, when he joined the service in the year 1990 and his salary was also fixed as per the norms in the V Bipartite agreement which was in force when the petitioner joined the service in the year 1990. The petitioner is well aware of the basic pay which was fixed at Rs.815/- at the time of his appointment but his first representation was given only in the year 2014 i.e., on 16.04.2014 after 24 years of his appointment in the year 1990. On this ground of delay and latches, the writ petition is liable to be dismissed. At this juncture, it is essential to extract the communication of IBA dated 30.01.2014 and the same reads follows:**



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**Indian Banks' Association**  
**HR & Industrial Relations**

No.HR&IR/CIR/2013-14/589/8764

January 30, 2014

To Chief Executives of Public Sector Banks

Dear Sir,

**Pay Fixation of Ex-Servicemen Re-Employed in Public Sector Banks**

We refer to our letter No. HR&IR/CIR/2012-13/76/589/5850 dated 6.9.2012 regarding re-fixation of pay of ex-servicemen re-employed in banks on or after 1.1.2006.

Keeping in view the fact that all the Public Sector Banks are enjoying autonomy in their HR matters, the Ministry of Finance, vide its letter dated 22<sup>nd</sup> March, 2013, requested IBA to frame uniform guidelines for fixation of pay of Ex-Servicemen upon their re-employment in PSBs, in consonance with the Government of India's policy in the matter and the principle of fairness. The letter further stated that the system of re-employment should be reviewed comprehensively to allow Ex-Servicemen to have their pay protected upon re-employment in PSBs. IBA was requested to have these issues considered and examined in consultation with the PSBs and send their considered opinion/comments to the Ministry of Finance, Department of Financial Services for necessary action.

Accordingly, IBA constituted a Working Group, consisting of three senior officers drawn from banks and prepared a report. With the approval of the Managing Committee at its meeting held on 6<sup>th</sup> June, 2013, the Report of the Working Group was sent to DFS for their consideration and to issue necessary guidelines. The Ministry of Finance, vide letter dated 19<sup>th</sup> July, 2013, advised IBA to take appropriate decision in the matter of pay fixation of re-employed Ex-Servicemen in PSBs as deemed fit. While doing so, IBA was asked to ensure that such pay fixation is in consonance with DOPT guidelines issued from time to time that all PSBs follow the guidelines uniformly to avoid disparity in pay fixation across PSBs.

As desired by DFS, a "draft" guidelines to be issued to PSBs was sent to the DFS vide our letter dated 27<sup>th</sup> August, 2013 for their examination and their approval.

Now, the Ministry of Finance, DFS, vide their letter dated 30<sup>th</sup> December, 2013 (copy enclosed), has advised that the draft guidelines prepared by IBA generally appear in order. However, before issue of these guidelines to all PSBs, it is desirable to ensure that no decision is contradictory to established Government Policy and that none of these are violative of DOPT or Ministry of Defence (MOD)/Ministry of Finance instructions on this subject.

Draft guidelines, approved by the Ministry of Finance, Department of Financial Services with some suggestions were put up to the Management Committee of IBA at its meeting held on 28.1.2014 for approval. The Committee has approved these guidelines as per annexure enclosed for compliance by Banks.

All the Banks are therefore advised to implement these guidelines regarding pay fixation of ex-servicemen on their re-employment on or after 1.1.2006.

Yours faithfully,  
Sd/-(K. Unnikrishnan)  
Deputy Chief Executive

End:

cc to: Chief Executives of Private Sector Banks - For Information.



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18. In view of the above factual matrix of the case, this Writ petition is liable to be dismissed on the following grounds:

1) The circular of the respondent bank dated 28.01.1997 is only applicable to the petitioner and not IBA communication dated 30.01.2014, since the communication clearly says about the **pay fixation of Ex-servicemen on the re-employment, who joined on or after 01.01.2006.**

2) The petitioner did not choose to approach the respondent bank to re-fix his pay **till his date of superannuation on 31.05.2013.** If he aggrieved by the fixation of his pay at Rs.815/-, he ought to have approached the respondent bank within a reasonable time.

3) In this case, the first representation was given to the respondent only on 16.04.2014, that too based on the IBA communication dated 30.01.2014, which is not applicable to the petitioner. **The petitioner never approached the respondent bank in his entire carrier of service spanning for a period of 23 years in regard to fixation of pay.**

4) That apart, the petitioner has filed the present writ petition after **a delay of seven years i.e., after his superannuation on 31.05.2013.**



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19. Accordingly, this Court is of the considered view that the Communication dated 10.03.2016 vide Re.No.CZO:HRD:KSR:2015-16:4468 and consequential communication dated 16.05.2020 vide Ref.No.CZO:HRD:SS:1790 issued by the first respondent does not warrant any interference by this Court and the same is hereby confirmed.

20. In the result, this writ petition stands dismissed with the foregoing reasons. No costs. Consequently, connected miscellaneous petition is closed.

**20.11.2024**

(vm)

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



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To:

- 1.The Zonal Manager,  
Southern Zone,  
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- 2.The Manager,  
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**J.SATHYA NARAYANA PRASAD,J.**

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**20.11.2024**