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W.A.No.962 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.962 of 2014

V.R.Giridharan

... Appellant

Vs.

1.General Manager,
Canara Bank,
Staff Selection (Workmen),
Madurai Circle Office,
Post Box No.243, St.Mary's Campus,
East Veli Street,
Madurai – 625 001.

2.General Manager,
Canara Bank,
Personnel Wing,
Head Office,
No.112, J.C.Road,
Bangalore – 560 002.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by the Learned Single Judge dated 05.12.2012 made in W.P.No.11725 of 2005 is arbitrary, unjustified and against the principle of



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natural justice. The appellant's fundamental and constitutional rights have been infringed and in the above said circumstances, the order dated 05.12.2012 in W.P.No.11725 of 2005 is unsustainable and is liable to be set aside.

For Appellant : Mr.P.M.Duraiswamy

For Respondents : Mr.P.R.Raman
Senior Counsel
For Mr.C.Seethapathy

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The present Intra-Court Appeal has been instituted challenging the order dated 05.12.2012 in W.P.No.11725 of 2005.

2. The writ petitioner is the appellant before us. The petitioner joined the service of the respondent / Bank in May, 1984. Admittedly, the petitioner voluntarily retired from service with effect from 17.03.2001. The appellant claims that he has completed 15 years of qualifying service and therefore, eligible for pension.



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3. Mr.P.M.Duraiswamy, learned counsel for the appellant would contend that the calculation made by the respondent / Bank is not in consonance with clause 17 of the Canara Bank (Employees') Pension Regulations, 1995. Therefore, the writ appeal is to be considered. That apart, the Employee Provident Fund contribution deposited in the pension fund has not been paid to the appellant. The said aspect was not considered by the Writ Court. Thus, the writ appeal came to be instituted.

4. Mr.P.R.Raman, learned Senior Counsel appearing on behalf of the respondent / Bank would oppose by stating that the appellant is not entitled for pension, since he has not completed the qualifying services of 15 years. That apart, the employee contribution of Provident Fund alone has been deposited with the pension trust, which cannot be reimbursed either to the Bank or to the employee concerned. If at all the employees eligible for pension, then alone the fund will be released by following the due process of law.

5. In the present case, the said issue does not arise, since the appellant became ineligible for pension.



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6. We have considered the submissions made on behalf of the parties in the present writ appeal.

7. Admittedly, the appellant joined the Bank on 30.05.1984. He voluntarily retired with effect from 17.03.2001. The total period of service calculated by the Bank is 16 years, 9 months from 17.03.2001. The total period service as per the petitioner is 16 years, 9 months and 15 days. The Bank further contended that the total number of days, unauthorised absent i.e., absence without leave and ends on loss of pay during his entire service period total 2 years and 6 days. Leave on loss of pay sanctioned total 10 months and 19 days. Therefore, the total period of non-qualifying services was arrived by the Bank as 2 years, 10 months and 25 days. The actual service of the appellant was calculated as 13 years, 11 months and 15 days. The broken period of service of 6 months and 1 day and above is rounded off to a full year as per the regulations of the Canara Bank (Employees') Pension Regulation, 1995. Thus, the qualifying services, put in by the appellant has been fixed as 14 years. Since the minimum qualifying services contemplated under the Regulation is 15 years, the appellant was declared as ineligible for pension.



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8. The calculation arrived by the respondent / Bank has been considered by the Writ Court elaborately. When the appellant is unable to establish that he has completed 15 years of qualifying services, the relief as such sought for to grant pension cannot be considered.

9. As far as the Provident Fund contribution is concerned, Mr.P.R.Raman, learned Senior Counsel would submit that the employees Provident Fund contribution had been deposited in the pension account and the same cannot be received by the Bank and therefore they have no claim on that.

10. That being the factum, the appellant is at liberty to approach the Pension Trust, if he is otherwise eligible to get reimbursement of the employees Provident Fund contribution made by the respondents in the present case. As far as the pension eligibility is concerned, we do not find any infirmity in respect of the findings made by the learned Single Judge.



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WEB COPY 11. Accordingly, the order impugned stands confirmed and the Writ

Appeal is dismissed. No costs.

[S.M.S., J.] [C.K., J.]
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Index : Yes
Speaking order
Neutral Citation : Yes



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