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Writ Appeal No.2062 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.06.2024

PRONOUNCED ON : 25.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.2062 of 2022 &
CMP.Nos.15603 of 2022 & 9484 of 2023**

S.Sundararajan

... Appellant

Vs

- 1.State Bank of India,
Rep., by its Chairperson,
State Bank Bhavan,
Madam Cama Road,
Corporate Centre, Opp Mantralaya,
Mumbai - 400 020.
- 2.The Chief General Manager,
State Bank of India,
Local Head Office,
Circle Top House,
No.16, College Lane, Chennai – 600 006.
- 3.Assistant General Manager (PPG),
State Bank of India,



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PPG Department, No.16, College Lane,
Nungambakkam, Chennai – 600 006.

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4.The Deputy General Manager,
State Bank of India,
Commercial Branch, 1443, Trichy Road,
Coimbatore – 641 018.

... Respondents

PRAYERS: Writ Appeal has been filed under Clause 15 of Letter Patent against the order dated 08.07.2022 made in W.P.No.16535 of 2015.

For Appellants : Mr.N.Seshadri

For Respondents : Mr.S.Raveendran Sr., Counsel for
Mr.S.Bazeer Ahamed for RR1 to 4

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU., J)

This instant Intra-Court Appeal had been preferred by the un-successful Writ Petitioner wherein his claim for pension had been rejected by the learned Single Judge on the ground of delay and laches as well as *resjudicata*.

2.Heard Mr.N.Seshadri, learned counsel appearing the appellant and Mr.S.Raveendran learned Senior Counsel for Mr.S.Bazeer Ahamed learned counsel appearing for the respondents.



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3. The learned counsel appearing for the appellant would submit that the appellant entered into the service of the State Bank of India as a Clerk Typist in the year 1981 and thereafter, he was promoted as Trainee Officer w.e.f., 01.08.1987 in the Junior Management Scale and thereafter to the Middle Management Scale II in the year 1993. During the year 2000, the appellant was posted as Manager (Credit Analyst) in the Industrial Finance Branch at Coimbatore by way of promotion. Considering his family circumstances particularly his old parents and minor children, the appellant has sought for voluntary retirement from service w.e.f., 25.06.2001 and the same has also been accepted by the respondent Bank and had relieved the appellant from service. Since, the appellant was denied pension, he along with two others had approached this Court in the year 2004, seeking for grant of pension and other retirement benefits. He would submit that the learned Single Judge had dismissed the claim of the appellant by holding that the appellant had availed the benefit of the Voluntary Retirement scheme and now cannot turn back and claim pension. He would further submit that the learned Single Judge has also rejected the claim of the



appellant by holding that the appellant had not completed 20 years of pensionable service. In that context, he would submit that the learned Single Judge had failed to take into the probation period in coming to the conclusion that the appellant had not completed 20 years of service.

4. The learned counsel appearing for the appellant would submit that a Division Bench of this Court in a subsequent judgment in the case of similarly placed person had held that while computing the period of service for pension, the initial appointment should be reckoned which includes the probationary period and therefore, applying the law laid down by the Division Bench, as also been approved by the Hon'ble Apex Court in rejecting Special Leave Petition filed by the Bank against the said order, the appellant became entitled for pension. He would further submit that the claim for pension would be continuous cause of action and therefore, there is no question of delay or laches or also invoking the principles of *resjudicata* to deny the benefits as the pension is not a bounty. Hence, he would seek interference of the order passed by the learned Single Judge. The learned counsel appearing for the appellants rely upon the following judgments in support of his contentions:-



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- 1) *Uma Gour vs. G.M.SBI, dated 23.01.2002 of M.P.High Court;*
- 2) *SBI vs. Kuldeep Raj dated 11.12.2014 of P&H High Court;*
- 3) *S.Shanmugavel vs. SBI dated 16.02.2015 of Madras High Court;*
- 4) *SBI vs. V.Rama Rao, dated 25.08.2014 of A.P., High Court;*
- 5) *Rugmini Ganesh vs. SBI, dated 05.10.2018 of Bombay High Court;*
- 6) *Sameedhasuhas Deshpande vs. SBI, dated 23.08.2022 of Bombay High Court ;*
- 7) *The Jamia Masjid vs. Shri K.V.Rudrappa, dated 23.09.2021 of Hon'ble Supreme Court;*
- 8) *M.L.Patil (Died) vs. State of Goa, of Hon'ble Supreme Court;*
- 9) *Shri Hari Hanumandas Kothala vs. Hemant Vithal Kamat and Ors., dated 09.08.2021 of Hon'ble Supreme Court;*
- 10) *Union of India vs. Tarsem Singh reported in (2008) 8 SCC 648;*
- 11) *S.K.Mastan Bee vs. The G.M., South Central Railway & Anr, dated 04.12.2002 of Hon'ble Supreme Court;*
- 12) *Ram Chandra Singh vs. Savitri Devi & Ors., dated 09.10.2003 of Hon'ble Supreme Court;*
- 13) *Canara Bank vs. N.G.Subbarayalu Chetty, dated 20.04.2018 of Hon'ble Supreme Court;*



- 14) *Raju Ramsing Vasave vs. Mahesh Deorao Bhivapurkar* reported in (2008) 9 SCC 54 of Hon'ble Supreme Court;
- 15) *Satyendra Kumar vs. Raj Nath Dubey* dated 06.05.2016 of Hon'ble Supreme Court;
- 16) *UOI vs. Dr.O.P.Nijawan & Ors.*, dated 03.01.2019;
- 17) *Kunnath Chandrashekar vs. SBI* dated 02.09.2019 of Kerala High Court;
- 18) *SBI vs. Radhey Shyam Pandey*, dated 26.02.2015 of Hon'ble Supreme Court; &
- 19) *State of Rajasthan vs. O.P.Gupta*, dated 19.09.2002 of Hon'ble Supreme Court;

5. Countering his arguments, Mr.S.Raveendran learned Senior Counsel appearing for the respondent Bank would submit that the appellant had not challenged the order of the learned Single Judge in an earlier round of litigation and therefore, he is not only barred by principles of *resjudicata*, but also barred by principles of estoppel and acquiescences in claiming pension. That apart, he would submit that as per the pension scheme, an employee would be entitled for pension only if he completes 20 years of regular services and that if any person leaves the organisation under Voluntary Retirement Scheme, he would be entitled for pension only if he



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had put in the said 20 years of pensionable service, apart from he having completed 50 years of age. In the present case, he would submit that the appellant even as per the Division Bench judgment, if is said to have completed 20 years of pensionable services, he has left the services of the respondent Bank, when he was only 43 years of age and therefore, he would submit that the appellant would not be entitled for pension. That apart, he would seriously dispute the claim of the appellant that he had voluntarily retired from service by relying upon the letter dated 25.05.2001, submitted by the appellant and contend that the appellant had resigned from service and had not voluntarily retired from service. He would submit that according to the service jurisprudence when a resignation is made by an employee, he would forfeit his services and on forfeiture of such service, he would not be entitled to any pensionary benefits. He would also rely upon the communication of the respondent Bank dated 28.06.2001, wherein the resignation made by the appellant had been accepted. In that context, he would submit that the appellant would not be entitled for any pension as claimed by him and therefore, he prays this Court to dismiss this Intra Court Appeal. In support of his contentions, he rely upon the judgment of



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the Hon'ble Supreme Court in the case of ***R.Unnikrishnan & Anr., vs. V.K.***

Mahanudevan & Ors., reported in ***(2014) 4 SCC 434 (paras 20 to 23).***

6.We have heard the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

7. It is an admitted case that the appellant herein had earlier approached this Court in W.P.No.22433 of 2004, seeking for a similar relief and his claim had been rejected by the learned Single Judge of this Court by holding that he had not completed 20 years of pensionable service. Apart from that this Court also given a finding of fact that the appellant herein had only resigned the service and that he had also received the *exgratia* payment and also the Provident Fund along with Bank's contribution gratuity. After considering all these facts, the learned Single Judge has passed an order as early as on 16.10.2008. The appellant had not challenged the said order.



8. It has also been brought to the notice of this Court that as per Rule 22, a person who had completed 20 years of pensionable service ought to also have attained the age of 50 years and that he ought to have retired from service either on attaining the age of superannuation or if he had completed 20 years of pensionable service irrespective of the age if he satisfies the authority competent to sanction his retirement by approved medical certificate or otherwise he is incapacitated from further service, he would be entitled for pension. For better appreciation the relevant Rule is extracted hereunder:-

22.Minimum service for pension:- (1) A member shall be entitled to a pension under these regulations on retiring from the Bank's service:-

a) after having completed twenty years' pensionable service provided that he has attained the age of fifty years or if he is in the service of the Bank on or after the 1st November, 1993, after having completed ten years pensionable service provided that he has attained the age of fifty eight years of if he is in the service of the Bank on or after the 22nd May, 1998, after having completed ten years pensionable service provided that he has attained the age of sixty years.



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b) after having completed twenty years' pensionable service, irrespective of the age he shall have attained, if he shall satisfy the authority competent to sanction his retirement by approved medical certificate or otherwise that he is incapacitated for further active service:-

c) after having completed twenty years pensionable service, irrespective of the age he shall have attained at his request in writing;

d) after twenty five years' pensionable service.

9.In the present case, the appellant had resigned from service on personal reasons namely to take care of his aged parents and minor children. A reading of the letter of resignation given by the appellant produced before us is extracted hereunder:-

*S.Sundararajan
Manager (Credit Analyst)
State Bank of India
Commercial Branch
Coimbatore 641 018.*

*The General Manager (CB)
State Bank of India
Chennai LHO
Chennai 600 001.*

*Through the Deputy General Manager,
SBI, Commercial Branch, Coimbatore.*



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Dear Sir,

I have to submit that due to personal and pressing domestic reasons, I am unable to continue in the Bank's service. Hence, I am resigning my job from the Bank as Manager (Credit Analyst)

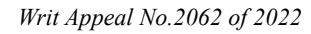
2. In the above circumstances, I humbly request you that I may be relieved from the Bank's service with effect from 25.06.2001, i.e., after the expiry of 1 month notice period and I am willing to remit the 2 months gross salary in lieu of the remaining 2 months notice period.

3. I undertake to liquidate the dues (VL, HTL, PL, CL, FA etc.) to the Bank before my relief from the Bank.

4. I convey my sincere gratitude and thanks to the Bank and the authorities for giving me an opportunity to serve the Bank.

The said letter has not been disputed by the appellant.

10. We do not wish to traverse into the issue of *res judicata* which has been seriously contended by the respective parties for the simple reason that firstly the appellant had resigned from service, when that being so, the appellant cannot be said to have retired from service either on attaining the age of superannuation or voluntarily.



12. In fine, the Writ Appeal fails and the same is accordingly dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.



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(D.K.K.,J.)

(K.B., J.)

25.06.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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State Bank Bhavan,
Madam Cama Road,
Corporate Centre, Opp Mantralaya,
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- 2.The Chief General Manager,
State Bank of India,
Local Head Office,
Circle Top House,
No.16, College Lane, Chennai – 600 006.
- 3.Assistant General Manager (PPG),
State Bank of India,
PPG Department, No.16, College Lane,
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