



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.04.2024

Pronounced on : 30.04.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**W.P.No.29205 of 2019**

N.Chandrasekaran

... Petitioner

Vs.

1. Union Bank of India, Rep. by its General Manager,
Department of Personnel, Terminal Benefit Division,
Pension Section, Central Office, Union Bank Bhavan,
No.239, Vidhan Bhavan Marg, Mumbai – 400 021.
2. The Chief Manager (TBD), Union Bank of India,
Department of Personnel, Terminal Benefit Division,
Pension Section, Central Office, Union Bank Bhavan,
No.239, Vidhan Bhavan Marg, Mumbai – 400 021.
3. The Chief Manager (EBD), Human Resources Department,
Union Bank of India, Central Office, Union Bank Bhavan,
No.239, Vidhan Bhavan Marg, Mumbai – 400 021
4. The Chief Manager, Human Resources Department,
Union Bank of India, Nodal Regional Office,
No.139, UBI Bhawan 2nd Floor, Prakasam Salai,
Chennai – 600 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the action of the Respondent bank in declining the application of the Petitioner dated 15.09.2010 opting for pension and commutation of Pension under the Staff Circular No.5690 dated 27.08.2010 through the communication of the 2nd Respondent dated 31.05.2011 bearing



No.DP:Pension:238:11 and the communication of the 3rd respondent dated 13.02.2019 bearing HR:EBD:1623:19 as illegal, arbitrary, contrary to law and consequently direct the respondents to enroll the petitioner as Member of the Respondents' bank Pension Scheme, pay arrears of Pension after adjusting the Bank Contribution to Provident Fund together with the accrued interest and continue to pay pension.

For Petitioner : Mr.A.R.Nagarajan

For Respondents : Mr.L.Sriram
for M/s.Chennai Law Firm

ORDER

The petitioner herein was appointed as Sub-staff in the respondent Bank on 29.10.1981 and thereafter, promoted as “Daftly”. While so, the petitioner has submitted an application on 09.05.2009 seeking discharge from service and to permit him to retire prematurely on medical grounds. The said request of the petitioner was accepted by the respondent Bank through communication dated 13.10.2009 and accordingly, he was relieved from service on the same day.

2. While the petitioner was in service, he has opted for provident fund, *ex-gratia* etc., and there is no dispute about the same. However, subsequent to the retirement of the petitioner from service, the respondent Bank issued a Staff Circular No.5690 dated 27.08.2010 giving another option to its existing and retired employees to join the pension scheme in terms of Bipartite Settlement with Workmen Unions and Officers' Organization. On coming to know about said



circular, the petitioner submitted an application dated 15.09.2010 opting for pension and commutation of pension thereof. The said request of the petitioner was rejected by the respondent Bank through proceedings dated 31.05.2011, intimating the petitioner that the employees, who have voluntarily retired/ left the bank under the Scheme other than the special Voluntarily Retirement Scheme, 2001 are not eligible for pension option and also on the ground that the petitioner has left the services of the respondent Bank on 17.10.2009. Thus, the petitioner was informed on 31.05.2011 that he is not eligible for exercising pension option in terms of the circular dated 27.08.2010. But the petitioner has not taken any steps against the said proceedings dated 31.05.2011.

3. However, thereafter once again on 25.08.2018 and 20.10.2018, the petitioner resubmitted his application opting for the Pension Scheme. The respondent Bank having considered the said applications, informed the petitioner through letter dated 19.02.2019 stating that his claim was already rejected as early as on 31.05.2011 and a copy of the said letter also furnished to the petitioner, once again. However, for the reasons best known to the petitioner, the petitioner instead of questioning the original proceedings dated 21.05.2011, whereby the claim of the petitioner was rejected, has chosen to question the communication dated 19.02.2019 only. Thus, the fact remains that there is no challenge to the



proceedings dated 31.05.2011 issued by the respondent Bank rejecting the claim of the petitioner on the ground that he was not eligible for exercising the option in terms of the circular dated 27.08.2010. But, aggrieved by the said communication dated 19.02.2019, the petitioner approached this Court by filing the present Writ Petition only in the year 2019. In the absence of any challenge to the order dated 31.05.2011, the petitioner cannot be granted any relief in this Writ Petition.

4. Be that as it may. The claim of the petitioner was rejected by the respondent through an proceedings dated 31.05.2011 on the ground that the petitioner left the services of the Bank on 17.10.2009 under the Scheme other than the special Voluntarily Retirement Scheme, 2001 and therefore, he is not eligible to exercise the option in terms of the circular referred to above.

5. The respondents filed counter-affidavit contending that in terms of the Paragraph No.7 of the said Circular, the employees who resigned, dismissed and terminated from the service of the Bank by way of punishment/ penalty/ resignation and the officers, who retired voluntarily in terms of the Regulation 19 of the Officers' Service Regulations are not eligible to exercise the pension option in terms of the said circular. Paragraph No.7 of the said Circular reads as under:-



“ 7. NOT ELIGIBLE FOR PENSION OPTION:

Indian Banks' Association has clarified that Officers who retired voluntarily; in terms of Regulation 19 of Officers' Service Regulation and Employees/ Officers who resigned, dismissed, terminated and compulsorily retired, are not eligible for pension option.”

6. As already noted above, the petitioner prematurely retired while he was working as Daftry. In terms of Paragraph No.7 of the Circular, it is only the officers, who retired voluntarily in terms of regulation, 2019 of the Officers' Service Regulations are not eligible to exercise their option. Besides the employees/ officers, who resigned/ dismissed/ terminated and compulsorily retired are also made ineligible. The petitioner not being an officer, who retired under Regulation 19 of the Officers' Service Regulations, the said Paragraph No.7 of Circular has no application to the petitioner. It is also not the case of the respondent that the case of the petitioner would fall under resignation/ dismissal/ termination or compulsorily retirement of the petitioner from services of the Bank. Admittedly, the petitioner was permitted to retire from service due to total incapacitation for work. Thus, the case of the petitioner, under no circumstances can be said to be the one which would fall under Paragraph No.7 of the Circular. Thus, the reason



given in the order dated 31.05.2011 is unsustainable.

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7. Further, the contention raised in the counter-affidavit contending that the petitioner herein is a provident fund optee and has not chosen to opt the Pension Scheme while he was in service and therefore, he is not entitled to exercise the option in terms of circular in question is concerned, the same is liable to be rejected on the simple ground that the question of a person who has opted for Pension Scheme while he was in service exercising a second option for the same does not arise. The benefit of the circular in question is only for the employees, who have opted for provident fund while they were in service. The circular in question specifically enables the employees who retired from service prior to 27.04.2010 and were in service of the Bank prior to 29.10.1995. The petitioner is admittedly in service of the Bank prior to 29.10.1995 and retired from service on 17.10.2009. Thus, in terms of Paragraph No.4(ii) of the Circular, the petitioner would definitely fall under the clause-a of the Paragraph No.4(ii) of the Circular. Further, the petitioner also submitted his application well within time, as required under clause-b of the said paragraph. But, there is nothing in the entire affidavit filed in support of the Writ Petition to show that the petitioner has complied with the requirement under Clause-c of the Paragraph No.4(ii) of the Circular, wherein the petitioner was required to pay the entire amount of the Bank's contribution to



the provident fund and interest accrued thereon received by the employee together with his share of contribution within 30 days after the expiry of 60 days time permitted under Clause-b of Paragraph No.4(ii) of the Circular. In the absence of any such assertion by the petitioner that he has complied with the Clause-c of the Paragraph No.4(ii) of the Circular, the question of considering the application of the petitioner to opt for pension scheme in terms of the Circular does not arise.

8. In the light of the above, though this court has not agreed with the reasoning given in the order dated 31.05.2011, in the absence of challenge to the same and also for the reasons noted above, this court is not inclined to grant any relief to the petitioner nor inclined to remand the matter back to the respondents. Thus, this Court does not find any merit in the Writ Petition and the same is accordingly dismissed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

30.04.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The General Manager, Union Bank of India, Department of Personnel,



Terminal Benefit Division, Pension Section, Central Office
Union Bank Bhavan, No.239, Vidhan Bhavan Marg, Mumbai – 400 021.

2. The Chief Manager (TBD), Union Bank of India, Department of Personnel,
Terminal Benefit Division, Pension Section, Central Office,
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MUMMINENI SUDHEER KUMAR, J.

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