



REV.A.(MD)No.65 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.09.2024

CORAM

**THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

REV.A(MD)No.65 of 2023

M.Michael Raj

... Petitioner

vs

1.The Canara Bank,
represented by its Chairman and Managing Director,
Having its Head Office at
No.112, JC Road, Bangalore – 560 052.

2.The General Manager (Industrial Relations Section),
(Personnel Wing), Canara Bank,
No.112, JC Road, Bangalore – 560 052.

3.The Deputy General Manager,
Canara Bank,
Human Resources Management Section,
Circle Office, East Veli Street,
Madurai – 625 001.

4.The Chief Manager,
Canara Bank,
Karaikudi Branch, Karaikudi – 630 001.

...Respondents

PRAYER: Review Application filed under Order 47 Rule 1 of CPC r/w
Section 114 of CPC to review the order, dated 06.09.2016 made in W.A.
(MD)No.20 of 2013.



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For Petitioner : Ms.V.J.Latha
For Respondents : Mr.C.Karthi

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN, J.**)

The Review Application has been filed by the appellant in W.A(MD)No.20 of 2013 aggrieved by the judgment dated 06.09.2016, by which judgment, a coordinate Division Bench of this Court had dismissed the Writ Appeal and confirmed the order dated 09.10.2012 passed in W.P. (MD)No.13075 of 2012.

2.We are deeply conscious that the scope of a Review Application is limited and could be pressed into service only when there is an error apparent on the face of records or there has been a wrong application of fundamental principles. A Review would not lie, if the Court would have to apply its mind to adjudicate on any of the grounds raised, as that would be converting the hearing into an appeal over the judgment under the review.

3.The Writ Petition had been filed by the Review Applicant



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questioning an order of the third respondent, the Deputy General Manager, Canara Bank, Human Resources Management Section, Circle Office, East Veli Street, Madurai-625 001, dated 23.03.2011 and a further order dated 08.08.2021 and to quash the same and to direct the respondents in the Writ Petition to grant stagnation increment to the Writ Petitioner and to release the same with effect from 01.09.1990.

4.The facts of the case in brief are that the Review Applicant had joined service of Canara Bank as a Clerk on 29.07.1978. He was promoted as Officer JMG-I on 01.03.1988. On his request, he was reverted to the post of Clerk on 26.03.1990. We are informed that he had attained the maximum pay scale in the year 1991. It is contended that at the time of his promotion and subsequent reversal, the IV Bipartite Settlement between the Employees Union and the Management dated 08.09.1983 was in force. It is stated that if that Bipartite Settlement was put into effect, the Writ Petitioner would have been entitled for stagnation increment, since he had qualified for the same by completing five years of service after reaching the maximum scale of pay.



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5.The Writ Petitioner had also worked for two years as Officer which would indicate that he had not refused promotion. After serving as an Officer for two years, he opted to be reverted back as Clerk and he had been so reverted as Clerk. As per the IV Bipartite Settlement, an employee is entitled for stagnation increment, if there is no further promotional avenue available after completing five years of service and after reaching the maximum scale of pay.

6.The Employees' Union and the Management had later entered into a V Bipartite Settlement and it is contended that any Bipartite Settlement was always prospective in nature. The IV Bipartite Settlement came into effect on 17.09.1984. The V Bipartite Settlement came into effect on 10.04.1989. The VI Bipartite Settlement came into effect on and from 14.02.1995.

7.It is contended on behalf of the Review Applicant by the learned Counsel that only the IV Bipartite Settlement would apply to examine the claim of the Review Applicant. It is contended that however, the Division Bench had proceeded to examine the case of the Writ Petitioner in terms of the VI Bipartite Settlement and had therefore, dismissed the Writ Appeal



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and confirmed the order of the learned Single Judge.

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8. An alternative argument is also advanced that similar to that of the Review Applicant, another employee, by name, K.V.Raman, who had also similarly been originally appointed as Stenographer in the year 1977 and was redesignated as Clerk in the year 1983, was promoted as Officer on 01.01.1983. He had also opted to be reverted back to the post of Clerk and was so reverted on 07.02.1987. He had also, similar to that of the Writ Appellant, attained the maximum pay scale in the year 1991. During the period between promotion and the reversion, the IV Bipartite Settlement dated 08.09.1983 was in force. He also laid a similar Writ Petition seeking stagnation increment. A learned Single Judge in W.P.No.14147 of 2011, by order, dated 25.11.2016, applied the terms of the IV Bipartite Settlement and had granted him necessary relief. This order was questioned by the respondents herein before the Division Bench of this Court in W.A.No.617 of 2017. By judgment dated 20.11.2017, the Division Bench had refused to interfere with the order of the learned Single Judge and dismissed the Writ Appeal. The respondents herein/Canara Bank had then filed a Petition for Special Leave to Appeal in (C)No.5477 of 2018 before the Hon'ble Supreme



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Court. The Hon'ble Supreme Court by order dated 09.03.2018, had dismissed the same.

9.It is thus evident that the Review Applicant who also falls in the same time line as that of K.V.Raman, would naturally harbour a legitimate expectation that the IV Bipartite Settlement alone should be applied to him also.

10.Notice has been directed and learned Counsel had also entered appearance on behalf of the respondents and had also filed counter.

11.In the counter affidavit, the respondents had placed reliance on the judgment of the Division Bench of Delhi High Court in the case of ***Canara Bank -vs- V.K.Grover in LPA No.245 of 2007***. That was a case wherein the employee had opted for reversion, when the IV Bipartite Settlement was in force and the issue was whether he was entitled for stagnation increment in accordance with V Bipartite settlement. It was contended that the Division Bench of Delhi High Court had not only refused to grant him such stagnation increment, but had also noted that he had refused to opt for



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promotion. The facts are distinguishable, since the Review Applicant was promoted and after working as Officer for a period of two years, opted to revert back as a Clerk and a consequential order was passed reverting him as Clerk. He had never refused promotion.

12.In the counter, it had also been stated that it is not correct to state that the Bipartite Settlement was only prospective and that it would be retrospective in effect. The said issue will have to be examined in view of the judgment in K.V.Raman case (referred supra).

13.In view of all these reasons, we inclined to allow the Review Appeal. In effect, the judgment of the Division Bench in W.A(MD)No.20 of 2013 dated 06.09.2016 is set aside. We direct the Registry to place the matter before the Hon'ble Administrative Judge for appropriate orders for listing of W.A.(MD)No.20 of 2023. However, there shall be no order as to costs.

[C.V.K., J.] & [J.S.N.P., J.]
09.09.2024

Internet :Yes/No
Index :Yes/No
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C.V.KARTHIKEYAN, J.

AND

J.SATHYA NARAYANA PRASAD, J.

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Judgment made in
REV.A(MD)No.65 of 2023

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