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W.P.(MD) No.10572 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.10572 of 2017

and

W.M.P.(MD) No.8052 of 2017

S.Rengan

... Petitioner

-vs-

- 1.Union of India
rep.by Secretary to Government
Ministry of Finance
Department of Financial Services
Banking Division, Jeevan Deep Building
Parliament Street
New Delhi-110 001
- 2.Indian Banks Association
World Trade Centre Complex
Centre-1, 6th Floor, Cuffee Parade
Mumbai-400 005
rep.by its Chairman
- 3.The Chief Executive Officer /
Managing Director
The Lakshmi Vilas Bank Ltd.,
HRD Department
Administrative Office
Kathapara, Karur-639 006



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4.The Deputy General Manager
The Lakshmi Vilas Bank Ltd.,
HRD Department
Administrative Office, Karur

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceedings in LVB/102-09.05/103/2011-2012 dated 24.05.2011 and LVB/102-09.05/100/775/2016-17 dated 19.10.2016, on the file of the respondents 3 & 4 – Bank and quash the same and direct the respondents 3 & 4 to permit the petitioner to join the pension scheme, as per the Joint Note of the second respondent dated 27.04.2010 and to pay the pension to the petitioner retrospectively from 31.10.2016.

For Petitioner : Mr.K.G.Vasudevan

For Respondents : Mr.D.Saravanan for R1
Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.,
Standing Counsel for R3 & R4

ORDER

This writ petition has been filed challenging the impugned letters dated 24.05.2011 and 19.10.2016, issued by the respondents 3 and 4 – Bank, rejecting the petitioner's request to opt for pension, on the ground that his request was not made within the notified date.



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2. As per the notification of the respondent – Bank, the petitioner ought to have submitted his request for payment of pension on or before 19.04.2011. But, since the petitioner had submitted his request belatedly on 30.04.2011, his request has been rejected under the impugned letters issued by the respondent – Bank.

3. A counter affidavit has been filed by the respondents 3 and 4 – Bank.

4. At the outset, learned Standing Counsel appearing for the respondents 3 & 4 – Bank would submit that this writ petition is not maintainable, since the respondent – Bank is not a Public Sector Bank and it is a Private Bank. In support of his contention, learned Standing Counsel appearing for the respondents 3 & 4 – Bank relied upon the following authorities:

- (i) ***Federal Bank Ltd., vs. Sagar Thomas and others***, reported in ***(2003) 10 SCC 733***;



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- (ii) **ICICI Bank Limited, Corporate Office vs. Lakshminarayanan**, reported in **2009 (1) CTC 22**;
- (iii) Unreported decision in W.P.(MD) No.20715 of 2015, order dated 24.02.2022 in **M.M.Thangavel vs. Union of India and others**; and
- (iv) Unreported decision in W.P.Nos.7779 to 7781, 9207 to 9209, 12122 to 12126 of 2017, order dated 14.03.2024 in **R.V.Natarajan vs. Union of India and others**.

5. Learned Standing Counsel appearing for the respondents 3 & 4 – Bank drew the attention of this Court to the relevant paragraphs in the aforesaid decisions and would submit that since the respondent – Bank is a Private Bank, this writ petition is not maintainable. One of the paragraphs in the Division Bench Judgment of this Court in the case of **ICICI Bank Limited**, cited supra, which deals with the very same issue, is extracted hereunder:



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“17. In the present case also, as the appellant-Bank of Madura Ltd., is a Private Company, carrying on private banking business and not carrying on any statutory or public duty, no "Writ Petition" under Article 226 of the Constitution of India is maintainable against the appellant-Bank of Madura Ltd. Merely because the Bank has made provisions to grant "pension" on VRS, under the relevant Pension Scheme, the same cannot be a ground to hold that the Bank is performing a public duty or public function. Hence, the first question is answered in the negative against the respondent-Writ Petitioner and in favour of the appellant-Bank of Madura Ltd. (now ICICI Bank Ltd.)”

6. In all the aforesaid decisions, which dealt with the very same issue, consistently it has been held that writ petition is not maintainable pertaining to the issue, which has been raised in this writ petition, as the respondent – Bank was a Private Bank in all the aforesaid decisions. Admittedly, the respondent – Bank, in this writ petition, is also a Private Bank.



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7. In view of the same, due to the settled law, the present writ petition is not maintainable and the only remedy available to the petitioner to redress his grievance, if any, is only before the Civil Court. Having, by mistake, approached this Court, the petitioner should not be left remediless and the time spent before this Court during the pendency of this writ petition will have to be excluded under Section 14 of the Limitation Act, 1963, for the purpose of enabling him to approach the Civil Court seeking redressal of the very same grievance.

8. For the foregoing reasons, this writ petition is not maintainable and therefore, this writ petition is dismissed. However, liberty is granted to the petitioner to approach the Civil Court, if he so desires and the period spent by him before this Court in this writ petition shall be excluded for the purpose of limitation under Section 14 of the Limitation Act, 1963. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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