IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28190 of 2008

1.S.Mohan
2.S.P.Subramanian
3.K.S.Viswanathan
4.V.Soundararajan
5.BM.Haribabu
6.M.Nazeer Hussain
7.C.Shanmugasundaram
8.T.Mannar
9.E.Lakshmanan
10.K.N.Padmanabhan
11.S.Palaniappan
12.M.Murugan
13.S.Sankaran
14.T.Varadarajan
15.M.Sivaraman ... Petitioners

Vs.

1.The Presiding Officer,
Central Government Industrial Tribunal cum Labour Court,
Shasthri Bhavan, Haddows Road,
Chennai-600 006.

2.ICICI Bank Limited,
Rep.by its Chairman,

Corporate Office, ICICI Towers,
Bandra-Kurla Complex, Bandra (E),
Mumbai-400 051.

3.ICICI Bank Limited,
Rep.by its Chief Manager,
Corporate Office, ICICI Bank Towers,
93, Santhome High Road,
Chennai-600 028. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records from the first respondent, namely, the Central Government Industrial Tribunal cum Labour Court, Chennai, relating to the orders in C.P.Nos.15 to 29 of 2006 dated 23.06.2008, quash the same and consequently, direct the first respondent Tribunal to decide the matter on merits within the time frame on merits.

For Petitioner	:	Mr.K.M.Ramesh Senior Counsel for Mr.Subramani
For Respondents	:	R1-Court Mr.A.L.Somayaji Senior Counsel for Mr.Ramasubramani Associates for R2 Mr.Sanjay Mohan for M/s.S.Ramasubramanian for R3

ORDER

This Writ Petition has been filed challenging the orders of the first respondent passed in C.P.Nos.15 to 29 of 2006 dated 23.06.2008 and for a consequential direction to the first respondent to decide the matter on merits within a time frame fixed by this Court.

2. The petitioners herein who were the erstwhile employees of the Bank of Madura which got merged with ICICI Bank Limited, are before this Court challenging the dismissal orders dated 23.06.2008 of the computation petitions filed by them before the Central Industrial Tribunal cum Labour Court, Chennai. The said Computation Petitions were filed under Section 33(C)(2) of the Industrial Disputes Act to compute the amount due to the petitioners by taking into account the Dearness Relief as provided under Regulation-38 of Bank of Madura Employees Pension Regulation, 1995. The Labour Court, after considering the submissions made by the employees and the Management, dismissed the computation petitions on the ground of want of jurisdiction and in the order of this Court in

W.P.No.34351 of 2003, it was held that the Pension Regulations are not statutory in character.

3. The learned counsel appearing for the petitioners submitted that the petitioners are the former employees of the Bank of Madura which was taken over by ICICI Bank Limited and a settlement was reached with the Unions with regard to the pension taking over the process, wherein, it was agreed by the respondent Bank that the Pension Regulations entered into between the Bank of Madura and the employees' Union in the year 1996 would be honoured. In the year 2003, the respondents Bank formulated a Scheme which is called as ICICI Bank Early Retirement Option, 2003. The petitioners have applied for retirement under the said Scheme which was accepted by the respondents Bank and the petitioners were retired from service. While so, the respondents Bank has not calculated the pension as per the Pension Regulations, namely, the basic pay as available during the last 10 months of service has not been taken note of, but, instead, took note of the last drawn pay prior to the merger. It is on this point the petitioners

filed computation petitions before the Labour Court. The learned counsel appearing for the petitioners submitted that the respondents Bank has erroneously calculated the basic pension of the employees which is not in tune with the Pension Rules, 1995. While the petitioners sought for correct fixation of pension and the payment of arrears of pension together with the additional amount of commutation as consequential benefits, the respondent Nos.2 and 3 Bank have not responded to the claim of the petitioners which forced the petitioners to file computation petitions before the Industrial Tribunal. The learned counsel appearing for the petitioners relied on the judgment of the Hon'ble Supreme Court of India in the case of ***V.Kannappan and others vs. Additional Secretary and others*** in C.A.Nos.10364 to 10371 of 2014 and ***Bank of Baroda and another vs. G.Palani and othes*** reported in ***(2022) 5 SCC 612.***

4. The learned counsel for the respondents submitted that the Bank of Madura where the petitioners were working got amalgamated with the ICICI Bank in the year 2001 and after the merger, a new pay structure was introduced pursuant to the agreement dated 27.09.2001. As per the revised pay structure, the ICICI Bank agreed that in respect of the employees of the erstwhile Bank of Madura, they would get monthly salary and dearness allowance would be merged with the basic salary. Consequently, the pay structure of the employees were revisited with the conversion of 25% dearness allowance which got renamed as fixed dearness allowance on 01.09.2002. The balance 75% were to be merged in three equal installments on 01.09.2003, 01.09.2004 and 01.09.2005 respectively. Consequently, the payment of the fixed dearness allowance ceased to be in existence. The learned counsel for the respondent further submitted that admittedly, the petitioners have opted for Employee Retirement Option, 2003 and since there was no amendment to the Regulation 38, they are not entitled to dearness relief under Regulation 38, and those employees who retired under the above Scheme, are entitled to receive only the basic

pension and they have no right to claim dearness relief under the Regulation 38. Therefore, the entitlement of the petitioners is to only claim pension on that basis and not on the basis of the last drawn pay in ICICI Bank at the time of exercising the Employee Retirement Option, 2003. Therefore, the learned counsel for the respondents states that the Central Government Industrial Tribunal cum Labour Court, has rightly rejected the claim petitions and therefore no interference is called for in these writ petitions.

5. This Court has carefully considered the rival submissions of both sides and considered the materials placed on record.

6. Admittedly, the issue involved in the present writ petitions has already been agitated in an earlier writ petition viz., W.P.No.34351 of 2003 filed by similarly placed persons against the same respondent. The said writ petition was filed for a writ of Mandamus to grant pension in accordance with Regulation 36(2) read with Regulation 39 of the Bank of Madura

Employees Pension Regulation, 1995 based on the 10 month average emoluments last drawn by the petitioners with attendant Dearness Allowance and arrears of commutation from the date of retirement of each of the petitioners. The said writ petition was dismissed on 09.02.2007 by this Court, stating that the writ petition is not maintainable. This view was further affirmed by a Division Bench of this Court in W.A.No.480 of 2007, which has become final as no appeal has been filed as against the said judgment dated 09.02.2009. The Division Bench had observed that the petitioners had opted for Bank of Madura Employees' Voluntary Retirement Scheme and on 10.03.2001, the Scheme of amalgamation of Bank of Madura with ICICI came into effect with the sanction of RBI as per the Banking Regulations Act, and ultimately held that no mandamus can be issued to compel payment of dearness allowance.

7. Therefore, since the issue involved in these writ petitions has already been decided by a Division Bench of this Court, this Court does not find any reason to deviate from the said view taken by the Division Bench,

which is binding, where the issue was discussed in detail and a conclusion has been arrived at. Hence, agreeing with the view taken by the Tribunal in the Claim Petitions, this Writ Petition stands dismissed. There shall be no order as to costs.

06.02.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1.The Presiding Officer,
Central Government Industrial Tribunal cum Labour Court,
Shasthri Bhavan, Haddows Road,
Chennai-600 006.

2.ICICI Bank Limited,
Rep.by its Chairman,
Corporate Office, ICICI Towers,
Bandra-Kurla Complex, Bandra (E),
Mumbai-400 051.

3.ICICI Bank Limited,
Rep.by its Chief Manager,
Corporate Office, ICICI Bank Towers,
93, Santhome High Road,
Chennai-600 028.

M.DHANDAPANI, J.

ssb

W.P.No.28190 of 2008

06.02.2025