IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	13.02.2025
Pronounced On	16.04.2025

Coram:

THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.2019 of 2023
and C.M.P.No.17138 of 2023

1.The Chairman & Managing Director,
Indian Bank,
No.31, Rajaji Salai,
Chennai – 600 001.

2.The General Manager &
Circle Head, Indian Bank,
Circle Office, HRM Section,
Chennai – 600 008.

3.The Assistant General Manager,
HRM, Pension Cell,
Head Office, Indian Bank,
No.66, Rajaji Salai,
Chennai – 600 001.

...Appellants

Versus

1.A.Gulnar

2.The Joint Secretary (Banking),
Banking Division, Ministry of
Finance, Department of Economic Affairs,
Room No.6, 3rd Floor,
Jeevan Deep Building, Parliament Street,
New Delhi – 110 001.

3.The Chief Executive,
Indian Bank's Association,
World Trade Centre Complex, Centre – I,
Cuffe Parade, Mumbai – 400 001.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 01.06.2023 made in W.P.No.29968 of 2013.

For Appellants	:	Mr.V.Kalyanaraman for M/s.Aiyar & Dolia
For Respondent -1	:	Mr.R.Subramanian
For Respondents 2 & 3	:	No Appearance

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.)**

This Intra Court Appeal is preferred against the impugned order dated 01.06.2023 passed by the Writ Court in W.P.No.29968 of 2013.

2. The 1st Respondent/Writ Petitioner filed W.P.No.29968 of 2013 for issuance of a writ of certiorarified mandamus to call for the records

relating to the Rejection Order dated 19.01.2011 and quash the same and direct the 1st Appellant to consider her for the Pension Scheme as per the Circular dated 21.08.2010 of the Bank offering "Another Option for joining the existing Pension Scheme".

3. By the impugned order dated 01.06.2023, the Writ Court allowed the W.P.No.29968 of 2013 preferred by the 1st Respondent/Writ Petitioner. Operative portion of the impugned order reads as under:

> *"10. Perusal of records show that the notification dated 21.08.2010 extends the existing Pension Scheme to the employees who were in service of the respondent Bank prior to 29.09.1995 and continue in the service of the Bank on the date of the Settlement. Petitioner-s right to exercise her option for Pension Scheme, who had put 31 years and 2 months of unblemished service on the date of her resignation, cannot be denied, as she was in service, on the date of Settlement dated 27.04.2010. It is a right earned by the Government servant in recognition of quality of services rendered by her thus far and hence, it has come to be recognized as a case of deferred payment. Therefore, as on the date of Settlement, petitioner is very well in service of the respondent Bank and thus, the petitioner is entitled to opt for Pension Scheme.*
>
> *11. Therefore, in my considered opinion, the order dated 19.01.2011 passed by the 5th respondent is liable to be quashed and accordingly quashed. The respondents are directed to consider the petitioner as that of a person, who was in service on the date of Settlement dated 27.04.2010 and consider her for Pension Scheme, as per the Circular dated 21.08.2010 and grant the consequential benefits to her. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order."*

4. The brief facts of the case are that the 1st Respondent/Writ Petitioner joined the Appellant Bank as a Clerk-cum-Cashier on 26.02.1979. Thereafter, the 1st Respondent/Writ Petitioner served as an Assistant Manager with the Appellant Bank till 07.05.2010. Due to some personal reasons, the 1st Respondent/Writ Petitioner resigned from the service of the Appellant Bank on 07.05.2010.

5. In the year 1995, in lieu of Contributory Provident Fund, a Pension Scheme was introduced by the Appellant Bank under the Indian Bank (Employees') Pension Regulations, 1995 vide Notification dated 29.09.1995. The said Pension Scheme proposed to provide pension to the employees of the Appellant Bank out of a fund to be created by transfer of the employer's contribution to the Provident Fund. The subscription to the said Pension Scheme was voluntary by the employees of the Appellant Bank. The employees were also given a one time option to opt for the said Pension Scheme and only those employees who had given written consent within the stipulated time were enrolled to the said Pension Scheme and

those employees who had not opted for the said Pension Scheme were not entitled to become members of the said scheme.

6. The 1st Respondent/Writ Petitioner at the time of joining the Appellant Bank as a Clerk-cum-Cashier in the year 1979 had opted for the Contributory Provident Fund (PF) Scheme.

7. In the year 2010, the Indian Banks' Association had entered into a Settlement with the Workmen Unions and had signed a 'Joint Note' with the Officers Organization on 27.04.2010, based on which, the Appellant Bank issued the Circular No.HRM:92/2010-11 dated 21.08.2010, wherein, it had given a second opportunity to the employees to join the aforesaid Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995.

8. The second opportunity to join the aforesaid Pension Scheme came into effect on 23.08.2010. However, the employees who had resigned from the service of the Appellant Bank were not eligible to avail the option to join the said Pension Scheme as per the provisions of the 'Joint Note'

dated 27.04.2010 in the Settlement with the Workmen Unions entered between the Indian Banks' Association and Workmen Unions.

9. The 1st Respondent/Writ Petitioner had earlier submitted the resignation letter on 08.02.2010 which was accepted by the 3rd Appellant on 23.04.2010 and thereafter, the 1st Respondent/Writ Petitioner was relieved from the service of the Appellant Bank on 07.05.2010.

10. Subsequently, on 11.10.2010, the 1st Respondent/Writ Petitioner had applied for the aforesaid Pension Scheme which came into effect on 23.08.2010. That apart, the 1st Respondent/Writ Petitioner had sent two Representations dated 13.12.2010 & 28.12.2010 to the 3rd Appellant, seeking to consider her request to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 in terms of Clause 2(I)(a) of the Circular No.HRM:92/2010-11 dated 21.08.2010 issued by the Appellant Bank. However, the 3rd Appellant vide order dated 19.01.2011, rejected the request of 1st Respondent/Writ Petitioner to join the said Pension Scheme on the ground that the resigned employees are not eligible to avail Pension

Option under the Settlement dated 27.04.2010.

11. Challenging the Rejection Order dated 19.01.2011 passed by the 3rd Appellant, the 1st Respondent/Writ Petitioner filed W.P.No.29968 of 2013 before this Court which was allowed by the Writ Court vide impugned order dated 01.06.2023. Hence, the Appellants have preferred the present Writ Appeal.

12. The learned counsel for the Appellants submitted that based on the 'Settlement/Joint Note' dated 27.04.2010, the option to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 was extended by the Appellant Bank.

12.1. The 1st Respondent/Writ Petitioner was relieved from the service of the Appellant Bank on 07.05.2010, whereas, the second opportunity to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 came into force only on 23.08.2010. Hence, the 1st Respondent/Writ Petitioner who had resigned from services of the

Appellant Bank prior to 23.08.2010 was not eligible to avail the second opportunity to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995.

12.2. The learned counsel for the Appellants further submitted that the 1st Respondent/Writ Petitioner had submitted the resignation letter dated 08.02.2010 before the 3rd Appellant, wherein, it was categorically stated that the 1st Respondent/Writ Petitioner would relinquish office on the expiry of notice period of 3 months from the date of issuance of the resignation letter dated 08.02.2010 and further, undertook to not withdraw the resignation letter in the meanwhile and in the alternative, stated that she may be permitted to resign immediately without serving the notice period.

12.3. It is submitted that the 1st Respondent/Writ Petitioner even undertook to remit the salary for the unserved notice period. Thus, it is evident that the 1st Respondent/Writ Petitioner had intended to resign from the service of the Appellant Bank as early as on 08.02.2010.

12.4. It is submitted that though the resignation letter of the 1st Respondent/Writ Petitioner was accepted by the 3rd Appellant on 23.04.2010 and the 1st Respondent/Writ Petitioner was relieved from the service of the Appellant Bank on 07.05.2010, the benefit of the 'Joint Note' dated 27.04.2010 will not inure to the 1st Respondent/Writ Petitioner. Subsequently, on 11.10.2010, the 1st Respondent/Writ Petitioner had applied to the aforesaid Pension Scheme which came into effect on 23.08.2010. That apart, the 1st Respondent/Writ Petitioner sent representations dated 13.12.2010 & 28.12.2010 to the 3rd Appellant, seeking to consider her request to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 in terms of Clause 2(I)(a) of the Circular No.HRM:92/2010-11 dated 21.08.2010 issued by the Appellant Bank.

12.5. The learned counsel for the Appellants submitted that as per Regulation 22(1) of the Indian Bank (Employees') Pension Regulations, 1995, the 1st Respondent/Writ Petitioner was not entitled to the pension in accordance to the aforesaid Pension Scheme as the 1st Respondent/Writ Petitioner was relieved from the service of the Appellant Bank on

07.05.2010. Therefore, it is submitted that on this ground, the impugned order of the Writ Court is liable to be interfered with.

13. On the other hand, defending the impugned order of the Writ Court, the learned counsel for the 1st Respondent/Writ Petitioner submitted that pursuant to the approval of XII Bipartite Settlement & 9th 'Joint Note' dated **08.03.2024** by the Board of Directors of the Bank, the Appellant Bank had issued a Circular No.HRD-17 dated 09.05.2024, wherein, it had extended an option of pension to the resignees who were otherwise eligible to join Pension Scheme under the Bank Employees' Pension.

13.1. The learned counsel for the 1st Respondent/Writ Petitioner relied on Clause 1(a) of the Circular dated 09.05.2024 issued by the Appellant Bank, wherein, it has been stated as follows:

> *"1. The following categories of former employees, who satisfy all the conditions stated in sub-clauses (a) to (c) herein below, will be eligible for exercising an option to join the Pension Scheme within ninety days (90 days) from the date of this circular, as one time measure only:*
> ***(a) Employees and officers who were in service of the Banks on or after 01.01.1986 and had joined the Banks before 01.04.2010 and who have resigned from the service of the Bank on or before 26.04.2010 and who were otherwise eligible to join the pension scheme while in service"***

13.2. The learned counsel for the 1st Respondent/Writ Petitioner submitted that a reading of Clause 1(a) of the Circular dated 09.05.2024 makes it clear that those who have resigned from the service of the Appellant Bank on or before 26.04.2010 were eligible to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995. Therefore, it is submitted that the resignation letter of the 1st Respondent/Writ Petitioner was accepted by the 3rd Appellant only on 23.04.2010 i.e., before 26.04.2010 and hence, the 1st Respondent/Writ Petitioner is eligible to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995. Therefore, it is submitted that the impugned order of the Writ Court does not warrant any interference.

13.3. In this connection, the learned counsel for the 1st Respondent/Writ Petitioner relied on the following decisions:

(i) ***Power Finance Corporation Ltd. Vs. Pramod Kumar Bhatia*** *(1997) 4 SCC 280*

(ii) ***Central Bank of India Vs. Kiritkumar Lallubhai Chauhan*** *(C/Letters Patent Appeal No.156 of 2023 dated 10.03.2023)*

14. We have considered the arguments advanced by the learned counsel for the Appellants as well as the learned counsel for the 1st Respondent/Writ Petitioner and have also perused the materials placed before us.

15. The decision of the Hon'ble Supreme Court in ***Power Finance Corporation Ltd. Vs. Pramod Kumar Bhatia*** *(1997) 4 SCC 280* is not relevant since the said case dealt with withdrawal of resignation even before it was accepted. Relevant portion of the said decision reads as follows:

> *"**7.** It is now settled legal position that unless the employee is relieved of the duty, after acceptance of the offer of voluntary retirement or resignation, jural relationship of the employee and the employer does not come to an end. Since the order accepting the voluntary retirement was a conditional one, the conditions ought to have been complied with. Before the conditions could be complied with, the appellant withdrew the scheme. Consequently, the order accepting voluntary retirement did not become effective. Thereby no vested right has been created in favour of the respondent. The High Court, therefore, was not right in holding that the respondent has acquired a vested right and, therefore, the appellant has no right to withdraw the scheme subsequently.*
>
> ***8.** The appeal is accordingly allowed. The judgment of the High Court stands reversed. The writ petition stands dismissed. No costs."*

16. There are extenuating facts and circumstances in the facts of the present case which would entitle the 1st Respondent/Writ Petitioner to the

benefit of Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 in view of Clause 1(a) of the Circular dated 09.05.2024 issued by the Appellant Bank. We shall explain the same in the course of this disposition.

17. The facts are not in dispute. A Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 was introduced in the year 1995 itself. However, at that point of time, the 1st Respondent/Writ Petitioner did not opt for the said Pension Scheme. The 1st Respondent/Writ Petitioner chose to remain under the Contributory Provident Fund (PF) Scheme.

18. It is to be noted that based on the 'Settlement/Joint Note' dated **27.04.2010**, the Appellant Bank had issued a Circular No.HRM:92/2010-11 dated **21.08.2010**, by which, it had given a second opportunity to the employees to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995. The said option to join the Pension Scheme came into force only on **23.08.2010** i.e., after the 1st Respondent/Writ

Petitioner was relieved from the service of the Appellant Bank on **07.05.2010**.

19. The second opportunity to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 was implemented w.e.f. **23.08.2010** pursuant to the settlement between the Indian Banks' Association and Workmen Unions which took place on **27.04.2010** when the 1st Respondent/Writ Petitioner was still employed in the Appellant Bank.

20. In the present case, the resignation letter of the 1st Respondent/Writ Petitioner was accepted by the 3rd Appellant on **23.04.2010** and the 1st Respondent/Writ Petitioner was relieved from the service of the Appellant Bank on **07.05.2010**.

21. At this juncture, it is pertinent to state that as per Regulation 22(1) of the Indian Bank (Employees') Pension Regulations, 1995, resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and

consequently shall not qualify for pensionary benefits. Regulation 22(1) of the Indian Bank (Employees') Pension Regulations, 1995 is extracted hereunder:

> *"**22. Forfeiture of service:.***
> *(1) Resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits."*

22. Therefore, the benefit of Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 cannot be denied to the 1st Respondent/Writ Petitioner merely because there is a marginal delay between the Settlement/Joint Note dated 27.04.2010 and implementation of the second opportunity to join the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 on 23.08.2010.

23. That apart, as per **Clause 1(a) of the Circular No.HRD-17 dated 09.05.2024** issued by the Appellant Bank, those who have resigned from the service of the Appellant Bank on or before **26.04.2010** were eligible to join the Pension Scheme under the Bank Employees' Pension. Hence, the 1st Respondent/Writ Petitioner is eligible to avail the benefit of

Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 in terms of Clause 1(a) of the Circular No.HRD-17 dated 09.05.2024 issued by the Appellant Bank.

24. We therefore find no reason to interfere with the impugned order dated 01.06.2023 passed by the Writ Court in W.P.No.29968 of 2013. Hence, this Writ Appeal is liable to be dismissed.

25. Accordingly, this Writ Appeal is dismissed. Consequently, the Appellants are directed to include the name of 1st Respondent/Writ Petitioner in the Pension Scheme under the Indian Bank (Employees') Pension Regulations, 1995 in terms of Clause 1(a) of the Circular No.HRD-17 dated 09.05.2024 issued by the Appellant Bank. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) **(C.S.N., J.)**
16.04.2025

mrr
Index : Yes/No
Neutral Citation: Yes/No
Speaking Order (or) Non-Speaking Order

To

1.The Chairman & Managing Director,
Indian Bank,
No.31, Rajaji Salai,
Chennai – 600 001.

2.The General Manager &
Circle Head, Indian Bank,
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S.S.SUNDAR, J.
and
C.SARAVANAN, J.

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W.A.No.2019 of 2023

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