



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.22785 of 2023
and WMP.No.22238 of 2023

K.Jayabharathi

... Petitioner

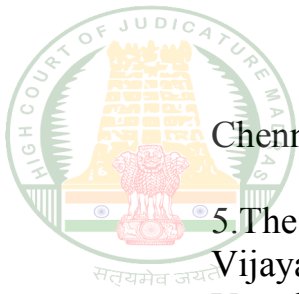
vs

1. The Managing Director
Bank of Baroda (erstwhile Vijaya Bank)
Baroda Corporate Centre,
Bhandra Kurla Complex
Mumbai – 400 051.

2.The General Manager
HR Operations
Bank of Baroda (erstwhile Vijaya Bank)
Head Office
“Baroda Bhawan” RC Dutt Road
Alkapuri, Baroda, Gujarat
Pincode – 390 007.

3.The Assistant General Manager (AGM)
Human Resource Management (HRM) &
In charge of Terminal Benefits & HRCPC Department
HR Operations “Baroda Bhawan”
R.C. Dutt Road
Alkapuri, Baroda, Gujarat
Pincode – 390 007.

4.The Chief Manager (HR)
Bank of Baroda (erstwhile Vijaya Bank)
No.41, (101) Baroda Pride
Luz Church Road



Chennai – 600 004.

5. The Senior Branch Manager

Vijaya Bank

Varadarajapuram Branch

Coimbatore – 641 015.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records related to the impugned order passed by the 3rd respondent herein in his proceedings in HO:HRM:PEN:115:318 dated 31.01.2023 and quash the same and consequently direct the respondents 1 to 5 herein to refix the petitioner's basic pension as per her eligibility at 50% of the average “pay” inclusive of all eligible allowances with effect from the date of her retirement in April 1997 and to make payment of the differential amount with interest for delay to the petitioner herein and to update the petitioner's basic pension corresponding to the five wage revisions of the years 1997 (7th BPS), 2002 (8th BPS), 2007 (9th BPS), 2012 (10th BPS) and of 2017 (11th BPS) effected to the serving staff and to pay the updation arrears, together with cost and interest for delay and to provide free group medi claim facility to the petitioner at par with hat of the serving staff with immediate effect.

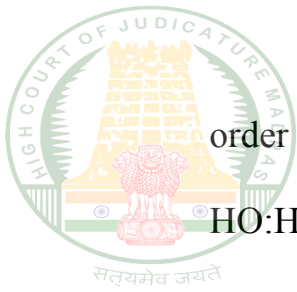
For Petitioner : Mr.T.Arun Rao Kallakuru

For Respondents : Mrs.Revathi Manivannan
for R1 to R4.

R5 – No appearance.

ORDER

The petitioner being the senior citizen filed the present writ petition for certiorarified mandamus to call for the records related to the impugned

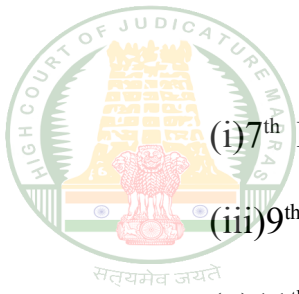


order passed by the 3rd respondent herein in his proceedings in

HO:HRM:PEN:115:318 dated 31.01.2023 and quash the same and

consequently direct the respondents 1 to 5 herein to refix the petitioner's basic pension as per her eligibility at 50% of the average “pay” inclusive of all eligible allowances with effect from the date of her retirement in April 1997 and to make payment of the differential amount with interest for delay.

2. The petitioner was working as a Clerk at the erstwhile Vijaya Bank which was merged with Bank of Baroda. The petitioner worked in the Vijaya Bank for 21 years and 5 months till her voluntary retirement in April 1997. The petitioner sent a representation dated 08.08.2019 stating that after her retirement there were five wage revisions, since 1997 and based on those wage revisions the basic pension was not updated and there was short fall in the fixation of eligible pension upon retirement was not rectified. The representation of the petitioner was not considered and thereby the petitioner had given legal notice dated 24.09.2019 and 16.10.2019. Thereafter, the petitioner filed a writ petition before this Court in WP.No.34934 of 2019 for issuance of writ of Mandamus directing the respondents to make payment of pension updation arrears corresponding to the five wage revisions concluded through Bi-Partite Settlement (BPS) with the registered trade Unions, viz.,



- (i) 7th BPS for the period 1997-2002 (ii) 8th BPS for the period 2002-2007
(iii) 9th BPS for the period 2007-2012 (iv) 10th BPS for the period 2012-2017
(v) 11th BPS for the period 2017-2022 which were effected to the serving staffs.

3. This Court by an order dated 08.08.2022 disposed of the WP.No.34934 of 2019 with a direction to the respondents herein to consider the representation dated 08.08.2019 and to pass orders in accordance with law within a period of eight weeks from the date of receipt of a copy of the order. Subsequently, the respondent passed the impugned order in his proceedings in HO :HRM : PEN : 115:318 dated 31.01.2023 rejecting the claim stating that the subsequent wage revisions are not applicable to the petitioner. Hence, the grievance is the non updation of basic pension in consonance with the five wage revisions. The averments contained in the impugned order that the revision in basic pension of retired employees is not done with every BPS is a clear violation of Article 14 of the Constitution of India, there is no justification for withholding the benefit of updation to the petitioner, because the petitioner is a retired employee who is also entitled for the benefits under the settlement. The denial of medicare facility to the petitioner on par with that of the serving staff. The petitioner has also made



to avail medi-claim policy, the insurance company has also increased the premium rate at 200%, the same is borne by the retired employee with the meager pension. The employees are paying a sum of Rs.33,000/- for the premium under group insurance scheme and the same is borne by the Bank for the serving employees. The great injustice is rendered to the senior citizen, the pension creates a vested right subject to 1972 Rules which are statutory in character and they are enacted in exercise of powers and the pension is not an exgratia payment but it is a payment for the past services rendered. The impugned order passed by the respondents is arbitrary and unreasonable. Hence, the petitioner filed the present writ petition.

4. The learned counsel for the respondent /Bank filed counter stating that the petitioner filed WP.No.34934 of 2019 and restricted her prayer only to consider the representation and this court held that the revision of pension and payment of revised pension with arrears cannot be granted and no such direction can be granted and directed the respondents to consider the representation of the petitioner dated 08.08.2022. The respondent after considering the claim of the petitioner rejected in its proceedings No.HO:HRM:PEN:115:318 dated 31.01.2023 for the following reasons (i)there is no provision of pay-scale for calculation of pension in Bank of



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Baroda (Employees') Pension Regulation, 1995 and (ii) In context to your contentions related to application of Central Civil Services Rules to the Public Sector Banks, it is submitted that, we are governed by the Bank of Baroda (Employees') Pension Regulations, 1995. According to the respondents, the petitioner employed in the service of the erstwhile Vijaya Bank and opted voluntary retirement in 1997 and relieved from service of the Bank on 10.04.1997. The respondent Bank is a nationalised Bank and it has its own Regulations for pension under Bank of Baroda (employees') Pension Regulations, 1995. The petitioner did not seek for any revision of wages after her retirement and according to her five wage revisions have occurred and the petitioner submitted her representation in the year 2019 after a lapse of 21 years and the writ petition is time barred and hit by several latches. The respondents passed the impugned order on 31.01.2023, after careful consideration of laws and regulations and had rejected the claim of the petitioner, the bipartite settlement and Indian Banker Association are related to Central Civil Services Rules to the Public Sector Banks and the petitioner is governed by Regulations (5) and 2(c)(iv) of the Pension Regulations, 1995 which mandates the dearness allowances will be paid to the employees. The petitioner had been receiving pension that is being duly updated in every six months on the revision of dearness relief as per



guidelines and Pension Regulations, 1995.

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5. As per clause 37(i) of the 7th BPS states that the settlement shall be binding on the parties for five years from 1st November 1997. Six months before the settlement expires, the Unions may submit their charter of demands to the IBA. The negotiations will commence before the last three months of the expiry of the settlement. Clause 16 of the BPS states that in relation to an employee who retires or dies while in service on or after the 1st day of April 1998, “Pay” for the purpose of pension shall be the aggregate of the pay drawn by the member of award staff in terms of the sixth Bipartite Settlement dated 14th February 1995 and the dearness allowances thereon calculated upto index number 1616 points in All India Average Consumer Price Index for Industrial Workers in the series 1960=100. This shall be subject to the necessary amendments to be made to the relevant provisions of Bank (Employees) Pension Regulations, 1995.

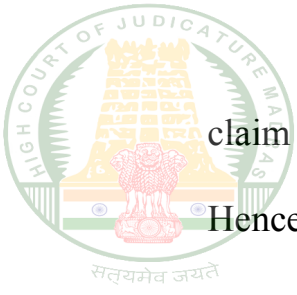
6. According to the respondents the pension benefits incurred shall be provided to the employees retired after 01.04.1998. The petitioner retired from the service in the month of April 1997, hence the petitioner is not



entitled to claim the benefits under the aforesaid Bipartite Settlement and prays for dismissal of the writ petition.

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7. On going through the documents filed by the respondents, it is seen that the petitioner's pension has been revised and dearness allowance has been increased periodically including the additional pension. The dearness allowance varying from time to time is revised as per rules. From the records, the petitioner is not a party to the BPS and at that time the petitioner was not in service and she retired from service voluntarily prior to BPS. Hence, the persons who are in service during the BPS are entitled for the said benefit. The petitioner retired from the service at the relevant point of time, is entitled only for revision of dearness allowance for every six months, accordingly, the pension is calculated and drawn to the petitioner. With regard to the reduction in pension, after certain period the pension also gets reduced as per the existing rules and norms. With regard to the medical facilities, the procedures laid down in the conditions of service in the petitioner bank and the petitioner cannot seek the same benefit to that of the serving employee. In general, there is always a difference of pay and other emoluments between the employees who are in service and to that of the retired employees in all sectors of employment. The petitioner cannot



claim as a right to the benefits that are provided to the employees in service.

Hence, the relief sought for by the petitioner cannot be considered.

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8. In the result, the writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is also closed.

05.02.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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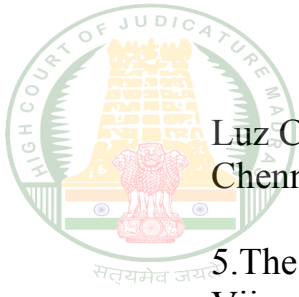
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V.BHAVANI SUBBAROYAN, J.

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