



W.P. No. 27965 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 27965 of 2019

1. A.Sappani (Deceased)

2. Pechiammal

... Petitioners

(P2 is substituted as LR of the deceased
P1 vide order dated 15.03.2023 in
W.M.P. No. 24929 of 2020)

-VS-

The UCO Bank,
Rep. by its Chief Officer,
Zonal Office,
Thambu Chetty Street,
Chennai - 600 001.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Declaration, declaring the action of the respondent bank in not accepting the option of the petitioner's husband for shifting from Provident Fund to Pension Scheme under the UCO Bank Employees Pension Regulations, 1995, as illegal, arbitrary and contrary to law and consequently direct the respondent bank to calculate the provident fund to be refunded by the petitioner's husband A.Sappani if any after adjusting with the arrears of pension and further direct the respondent to pay the petitioner arrears of family pension and continue to pay family pension every month in terms of UCO Bank Employees Pension Regulations, 1995. (Prayer amended vide order dated 15.11.2024 in W.M.P. No. 26851 of 2023)

For Petitioners : Mr. R.Kamatchi Sundaresan

For Respondent : Mr. M.S.Seshadri



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ORDER

The petitioner has filed this writ petition for a declaration declaring the action of the respondent bank in not accepting the option of the petitioner's husband for shifting from Provident Fund to Pension Scheme under the UCO Bank Employees Pension Regulations, 1995, as illegal, arbitrary and contrary to law and consequently direct the respondent bank to calculate the provident fund to be refunded by the petitioner's husband A.Sappani, if any, after adjusting with the arrears of pension and further direct the respondent to pay the petitioner arrears of family pension and continue to pay family pension every month in terms of UCO Bank Employees Pension Regulations, 1995.

2. Heard Mr. R.Kamatchi Sundaresan, learned counsel for the petitioners and Mr. M.S.Seshadri, learned counsel for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The first petitioner was illegally terminated from service and he had challenged this termination before the Industrial Dispute, wherein an award has been passed in favour of the petitioner to reinstate him with continuity of service and the same was challenged by the petitioner by filing a writ petition in W.P. No.13309 of 2010 and by which the order came to be passed on



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03.11.2016 by dismissing the writ petition and by confirming the award of the Labour Court and the writ appeal in W.A. No. 372 of 2017 has been filed also dismissed on 27.06.2017.

4. It is learnt that the respondent had also filed an SLP in the year 2017 and that was also dismissed in the same year. So all those litigations with regard to his reinstatement came to an end during the year 2017. Hence, all the litigations about his reinstatement were over as early as in the year 2017. However, the petitioner had attained superannuation on 28.02.2013. Hence, the petitioner was allowed to retire by giving the service benefits, like back wages and all other benefits. At that point of settlement of retirement benefits, the petitioner was given with provident fund.

5. The learned counsel for the petitioner submitted that the petitioner was given with settlement benefits like provident fund. He further submitted that as per the UGO Bank (Employees') Pension Regulations, 1995, an employee is entitled to exercise an option in writing to switch between the provident fund and pension. Even though the limitation to exercise the said option has been fixed at 120 days which came into being and notified in the Official Gazette on 29.09.1995, the petitioner did not exercise the option until the year 2019. Only



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on 22.06.2019, he has given a letter to the respondent Bank stating that he is eligible to exercise option under the Pension Regulations and his option to get pension by limiting the provident fund benefits already received by him should be accepted and the respondent Bank did not accept the same and the petitioners representation was not given with any disposal.

6. However, the learned counsel for the respondent submitted that the petitioner who had received all the terminal benefits in the year 2018, immediately after disposal of the writ appeal and SLP, cannot now come and say that he came to know about the regulations itself only in the year 2019 and hence, he is eligible to exercise his option in the year 2019. He further submitted that the pension scheme will not be applicable to the deceased first petitioner because he will not fall under the category of persons, who have been stated in the said Circular.

7. The fact remains that even when he received the terminal benefits he did not raise any objection as to the payment towards the provident fund and the payment has not been received even by protest also. Without any objection the petitioner had received all his terminal benefits which are paid to him in the year 2018 at the end of all litigations concerning his reinstatement. Now the



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petitioner submitted only after he received the terminal benefits, he came to know about the existence of the rules and thereafter, he had exercised his option by giving him permission to remit all the provident fund amount already availed by him. At the time when the petitioner was given with the terminal benefits he could have raised the objections by stating that he wished to exercise the option to come under the pension scheme and because of his non-employment he did not exercise the same. Even if it is construed that the petitioner's limitation to exercise option would start to run from the day on which his terminal benefits were settled, 120 days can be counted only from then onwards. The petitioners, who had received all the terminal benefits in the year 2018, has sent a representation only in the year 2019, which is also beyond 90 days from the date of his receiving the terminal benefits.

8. The petitioner cannot state that he was not aware of the rules of the bank with regard to the pension scheme. Once the petitioner becomes an employee and the award of the Labour Court has been passed in his favour, the direction to reinstate had always been given him the benefit of reinstatement without getting revoked. Though there was a delay in implementing the order, the petitioner's existence in the service was not denied. In fact, even after the dismissal of the writ appeal and the SLP filed by the respondents, the petitioner



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was given with continuity of service and hence, the petitioner cannot claim as though he had entered into the service itself only in the year 2017 /2018 and that he came to know about the pension scheme only in the year 2019. Even by any remote possibilities, if the petitioner is not aware of the pension scheme it is at his risk. If a person who is not aware of his own service rules cannot be allowed to come and knock the doors of the court after several years by saying that he came to know about the rules just recently.

9. Accordingly, this writ petition is dismissed. No costs.

21.02.2025

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

The Chief Officer,
UCO Bank, Zonal Office,
Thambu Chetty Street,
Chennai - 600 001.



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R.N.MANJULA, J.

Maya

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