IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM

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

W.P. No. 28967 of 2019

R.Subbaiah ... Petitioner

-vs-

1. Indian Bank
   Rep. by its Chairman & Managing Director
   Corporate Office / Head Office
   254 to 260, Avvai Shanmugam Salai
   Royapettah, Chennai-600014.

2. Assistant General Manager
   Indian Bank
   Corporate Office /Head Office
   HRM Department, I.R.C.C., II Floor
   254 to 260, Avvai Shanmugam Salai
   Royapettah, Chennai-600014. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter bearing CO/HRM/CRS PEN/28822 dated 28.08.2019 issued by the second respondent and to quash the same and consequently, direct the respondents to process the pension application of the petitioner and sanction pension to the applicant within a time frame.

For Petitioner : Mr. K.M.Ramesh, Senior Counsel
For Mr.V.Subramani

For Respondents : Mrs.S.R.Sumathy

O R D E R

This writ petition has been filed to call for the records relating to the letter bearing CO/HRM/CRS PEN/28822 dated 28.08.2019 issued by the second respondent and to quash the same and consequently, to direct the respondents to process the pension application of the petitioner and sanction pension to the applicant within a time frame.

2. Heard Mr.K.M.Ramesh, learned Senior Counsel assisted by Mr.V.Subramani, learned counsel for the petitioner and Mrs.S.R.Sumathy, learned counsel for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner, who was an employee of the respondent bank as Sub-staff, had gone on compulsory retirement on 07.03.2009. It is claimed by the petitioner that he has earlier filed a writ petition in W.P. No. 27916 of 2018 challenging the compulsory retirement and the same got dismissed. In the meantime, the respondent bank announced a scheme of pension even for the compulsory retirement employees with a condition to refund 156% of the Provident fund received by them. Subsequently, the petitioner had withdrawn the pending writ petition in W.P. No. 27916 of 2018 and applied for pension under Compulsory Retirement Pension Scheme(CRPS). However, the same has not been considered. Even prior to that, the communication was sent to the petitioner to exercise his option to join in the pension scheme and he also exercised his option accordingly. When the petitioner by letter dated 10.08.2019 sought permission to deposit the refund money, it was rejected by the impugned order dated 28.08.2019.

4. In the impugned order, it is stated that the petitioner has not provided funds towards the refund of the bank's contribution to the provident fund and the interest accrued thereon, which has already been received by the petitioner on his retirement together with the payment over and above the same amount at 56% of the amount and hence, his application could not be considered. It appears that the petitioner has ready been informed to have funds in his account towards the above due before the stipulated date of 28.01.2019, but the petitioner failed to deposit the amount before the stipulated date. On 10.08.2019, the petitioner has sent a representation stating that due to unavoidable situation, he has not remitted the amount and he sought permission to remit the amount as claimed. But only on receipt of the same, the impugned order has been passed. Even the petitioner's representation itself would show that the petitioner did not comply with the condition of making funds available towards the refund before the stipulated date and thereafter, according to his convenience, he has approached the bank to extend the time and permit him to provide the funds towards refund and that was rejected.

5. The learned counsel for the respondents submitted that the petitioner's option could not be processed because he did not provide adequate funds before the stipulated date and hence, the pension scheme cannot be extended to him. He further submitted that if such belated applications are allowed that would open flood gates and the sanctity of having a cut off date would be lost. The petitioner himself has omitted to make the amount to be refunded, available in his bank account. When the scheme of the Government contemplates certain stipulations in order to bring the employees to a particular pension scheme, the individuals, who do not comply the same within the stipulated time, would have to face the consequences that will automatically follow. It is not the case where the respondents have rejected the petitioner's claim stating that the petitioner was not at all eligible for the pension scheme. It has been specifically stated that though he was given with the option to shift to the pension scheme with a condition to refund the bank's contribution and other sum has already been demanded to be refunded and make it available in his account, he omitted to make it available in his account.

6. Despite the learned counsel for the petitioner cited several judgments with regard to the eligibility of the petitioner to receive pension, they are irrelevant in view of the fact that it is not the ineligibility which had dis-entitled the petitioner from coming under Compulsory Retirement Pension Scheme(CRPS), but he has defaulted in complying with the conditions.

7. In this regard also, the learned counsel for the petitioner attracted the attention of this Court to the judgment of this Court in ***G.Samraj Jayakumar -vs- Indian Bank*** [order made in W.P. No.35055 of 2012 dated 11.03.2016]. In the said judgment, it is held that failure to give authorization to withdraw the contribution refundable to the respondent shall not dis-entitle the petitioner from getting the benefit of pension. This is in view of the option already exercised by the petitioner. Even in this case, the petitioner has exercised his option unlike the petitioner in other case, but the petitioner did not make the amount available in his bank account in order to enable the respondent to debit the same irrespective of the authorization given by him. In fact, in the said judgment, a reference has been made to the earlier judgment made in ***Mangat Rai Sharma -vs- Indian Bank*** [Order made in W.P(C) No.6783 of 2013 dated

06.04.2015]. In the facts involved in that case also, the petitioner had all along made the refund amount available in his account.

8. In the present case, the petitioner did not make the refund amount available in his bank account in order to enable the respondent bank to debit the same. Even then the said amount could have been withheld from the future dues to be payable to the petitioner in view of shifting the pension scheme, or otherwise, the period of delay get compensated by way of imposing statutory interest and recover the same from the petitioner. Even at this belated stage, the petitioner seems to be having the amount demanded by the bank alone is available in his bank account. In other words, the sum demanded has already been made available before the stipulated date of 28.01.2019.

9. In view of the same, I feel the writ petition can be disposed by giving liberty to the respondent to give a fresh demand to the petitioner to make the amount mentioned already available in the bank account of the petitioner along with statutory interest on the provident fund from the stipulated date till the date of the recovery or the petitioner can also be at liberty to make such representation along with the authorization and the same can be ordered positively by the respondents by fixing another short time limit of two weeks.

10. Thus, the writ petition is disposed by granting liberty to the respondent to send a fresh demand to the petitioner to make funds available in his bank account along with the interest quantified by the respondent within a period of three weeks and on receipt of the same, the petitioner shall deposit the same in his bank account and make it available to be debited by the respondent within a period of two weeks and thereafter, pass orders by allowing the petitioner to draw pension as per the option exercised by him. No costs.

29.04.2025

Index: Yes/No
Internet: Yes/No
Speaking /Non-speaking order
Neutral Case Citation: Yes/No

Maya

To

1. The Chairman & Managing Director
   Indian Bank
   Corporate Office / Head Office
   254 to 260, Avvai Shanmugam Salai
   Royapettah, Chennai-600014.

2. The Assistant General Manager
   Indian Bank
   Corporate Office /Head Office
   HRM Department, I.R.C.C., II Floor
   254 to 260, Avvai Shanmugam Salai
   Royapettah, Chennai-600014.

R.N.MANJULA, J.

Maya

W.P. No. 28967 of 2019

Dated : 29.04.2025