BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.14093 of 2023

S.Nagajothi ... Petitioner

Vs.

1.The General Manager (HRM),
Indian Bank,
CO/HRM Department,
Avvaishanmugam Salai,
Royapettah,
Chennai – 600 014.

2.The Branch Manager,
Indian Bank,
Madurai Main Branch,
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter of the first respondent dated 30.11.2021 and quash the same and consequently direct the first respondent to permit the petitioner to remit the provident fund amount received by the petitioner's husband and to join the family pension scheme in accordance with the nomination made by her deceased husband based on her representation, dated 18.08.2020 within the time as fixed by this Court.

For Petitioner : Mr.V.Karthick Raja

For Respondents : Mr.C.Karthick

O R D E R

This writ petition has been filed to quash the impugned letter of the first respondent, dated 30.11.2021 and consequently direct the first respondent to permit the petitioner to remit the provident fund amount received by the petitioner's husband and to join the family pension scheme in accordance with the nomination made by her deceased husband based on her representation, dated 18.08.2020.

2. The facts of the case are herein under:

The petitioner's husband, namely, K.B.Selvaraj was appointed as Clerk/Shroff at Indian Bank, Madurai Main Branch, Madurai. On 30.01.2006, he was issued with charge sheet and he was imposed with the punishment of compulsory retirement with superannuation benefits vide order dated 28.02.2007. While he was working, he failed to opt for the pension scheme during the year 1995. Subsequently, in the year 2010, the second option for joining the pension scheme was extended to the retired employees. But the said offer was not extended to the petitioner, since he was imposed with the punishment of compulsory retirement. The Indian Bank Association vide its letter, dated 16.03.2018 extended the second option scheme to the compulsory retired employees, who joined in the service of the Bank prior to 29.09.1995 and compulsorily retired from service after that date i.e.,on 29.09.1995, but before 27.04.2010. The only condition for making application for second pension scheme was to repay the employer's contribution, which was paid towards provident fund with interest. Accordingly, the petitioner's husband submitted an application, dated 27.11.2018 opted to join the pension scheme. Due to his poor health condition, he died within a short span of time i.e., on 13.03.2019. Hence, he was unable to comply with the conditions set out in the scheme to repay the employer's contribution towards provident fund with interest. The petitioner was nominated by her husband to receive the benefits and as such, the respondents can consider the request for joining the pension scheme. In the said circumstances, the petitioner sent a representation dated 20.08.2019 to the first respondent requesting to permit her to remit the provident fund amount received by her husband so as to join the pension scheme. But there is no response from the first respondent. Again, the petitioner made another application dated 18.08.2020 to the first respondent. But there is no response to the same. Thereafter, the petitioner filed writ petition in W.P(MD)No.19020 of 2020 before this Court. The said writ petition was allowed on 22.12.2020 directing the respondents therein to consider the representation, dated 18.08.2020 submitted by the petitioner and pass appropriate orders on merits within a period of 8 weeks from the date of receipt of a copy of the order. In compliance of the same, the first respondent issued proceedings, dated 30.11.2021 rejecting the request of the petitioner. The said order is impugned in the present writ petition.

3. The counter affidavit has been filed on behalf of the respondents.

4. In the counter affidavit, it is averred that the Indian Bank Association vide its letter, dated 16.03.2018 has advised all public sector banks to extend the second option of pension to compulsorily retired employees/officers on same terms and conditions as mentioned in bipartite settlement/joint note, dated 27.04.2010. The respondents bank had also adopted and implemented the said guidelines received from the Indian Bank Association for extending the second option of pension for compulsorily retired officers vide circular dated 26.10.2018. As such, in the counter affidavit, it is denied that the only condition

for making application for pension scheme was to repay the employer's contribution which was paid towards provident fund with interest. The eligibility terms of joining second option of pension for compulsorily retired officers as per circular dated 26.10.2018 is that the last date to refund the bank's contribution towards provident fund with interest accrued thereon was fixed as 28.01.2019. The petitioner's husband failed to refund the said amount with interest within the time stipulated in the circular dated 26.10.2018 of the respondents. The petitioner's husband died on 13.03.2019 i.e., more than 45 days after the expiry of the due date and he did not comply with the conditions set out in the scheme vide circular dated 26.10.2018.

5. The learned counsel for the petitioner would submit that the order impugned in the writ petition is arbitrary and illegal. It is passed in mechanical manner. The first respondent failed to consider the fact that the petitioner's husband made an application on 27.11.2018 and exercised the option in writing within 60 days from the date of offer to become the member of the pension scheme. The said 60 days period is from 31.10.2018 to 29.12.2018. The petitioner made an application within the time i.e., within 60 days. The learned counsel for the petitioner further submit that the petitioner's husband was unable

to repay the employer's contribution which was paid towards provident fund with interest within a period of 90 days as set out in the scheme due to his serious illness. The petitioner could not handle the situation due to the sudden demise of her husband. The learned counsel for the petitioner further contends that the first respondent failed to see the representation of the petitioner in proper perspective and erroneously rejected the same and he sought to allow this writ petition.

6. On the other hand, the learned Standing Counsel for the respondents would submit that though the petitioner opted for the second option scheme within the time stipulated in the circular, dated 26.10.2018 of the Bank, but he could not remit the amount towards refund of bank contribution to the provident fund within the stipulated time i.e.on 28.01.2019. The learned standing counsel further contends that as on the cut off date i.e.28.01.2019, the petitioner's husband is alive and he died only after 45 days i.e., after the expiry of the due date. As the petitioner's husband failed to comply with the conditions set out in the scheme in the circular, dated 26.10.2018, the respondent rightly rejected the representation of the petitioner and he submits that no interference is required in the present writ petition and sought to dismiss the writ petition.

7. Having heard the submissions of the respective learned counsels and on careful perusal of the materials available on record, it appears that there is no dispute with regard to the admitted facts of the case. As per circular, dated 26.10.2018 issued by the respondent bank, the petitioner's husband is entitled to opt for the second option of pension. Admittedly, he submitted his option on 27.11.2018 i.e., within the time stipulated in the circular, dated 26.10.2018, which has to be submitted on or before 29.12.2018. As per the eligibility terms of joining the second option of pension scheme, the petitioner's husband ought to have remitted the amount towards refund of bank's contribution to the provident fund with interest within the stipulated date i.e. on 28.01.2019.

8. At this stage, the learned counsel for the petitioner has placed the discharge summary issued by the Suham Speciality Hospital, Madurai, in the name of the petitioner's husband. On perusal of the same, it appears that the petitioner was admitted in the said hospital on 11.02.2018, surgery was conducted on 11.02.2018 and discharged on 12.02.2018. The petitioner's husband died on 13.03.2019. The learned counsel for the petitioner also placed medical certificate for cause of death issued by the District Head Quarters Hospital, Periyakulam, dated 13.03.2019.

9. On perusal of these documents, it is clearly established that the petitioner’s husband was admitted in the hospital on 11.02.2018 and he underwent surgery and discharged on 12.02.2018 and thereafter he died on 13.03.2019. This Court cannot brush aside the contention of the learned counsel for the petitioner that the petitioner being a house wife could not able to handle the situation due to sudden demise of her husband. Admittedly, during the time stipulated in the circular, dated 26.10.2018, the petitioner's husband is suffering with serious health issues and due to that reasons only, he could not remit the contribution of the provident fund amount with interest to the respondent bank, as one of the conditions stipulated in the circular, dated 26.10.2018.

10. It is an admitted fact that the petitioner's husband was admitted in the hospital due to health problems and he died subsequently, besides only within 45 days of the cut off date. Now, the petitioner came forward to remit the said amount to the respondents, her request has to be considered by the respondents without going into the technicalities. Now, the bread winner of the family is no more and the petitioner has to survive herself and she has to maintain two children without any support. The grievance of the petitioner has to be considered with human outlook by the respondent bank.

11. Under these circumstances, in our considered view, it is appropriate and reasonable to direct the respondent bank to receive the amount to be remitted by the petitioner towards contribution of the provident fund with interest to be paid by the petitioner's husband to join in the second option of pension vide circular, dated 26.10.2018 in the interest of justice and equity. It is made clear that this order is passed considering the peculiar circumstance prevailed in this case and it will not be considered as precedent.

12. For the aforesaid reasons, this writ petition is allowed with the following directions:

1. The impugned letter of the first respondent, dated 30.11.2021 is hereby quashed.

2. The first respondent is directed to permit the petitioner to remit the provident fund amount received by her husband with interest to the respondent Bank to enable to join the family pension scheme in accordance with the nomination made by her deceased husband and grant family pension and other benefits to the petitioner.

3. The respondent bank shall inform the petitioner about the quantum of the amount to be remitted for this purpose to the respondent

bank within a period of two weeks from the date of receipt of a copy of this order.

4. On remittance of the said amount, the respondents shall take further steps to pay family pension to the petitioner within a period of four weeks thereafter.

13. No costs.

24.02.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
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To:

1.The General Manager (HRM),
Indian Bank,
CO/HRM Department,
Avvaishanmugam Salai,
Royapettah,
Chennai – 600 014.

2.The Branch Manager,
Indian Bank,
Madurai Main Branch,
Madurai.

BATTU DEVANAND, J.

Sn

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