



WP(MD)No.18154 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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M.Jayakumar

...Petitioner

Vs

1.The Managing Director and CEO,
ICIC Bank Limited, ICICI Towers,
Bandra Kurla Complex,
Bhandra (East),
Mumbai – 400 051

2.Regional Provident Fund Commissioner [Exemption]
Employees Provident Fund Organization,
Bhavizhya Nithi Bhavan,
14, Bhikeji Cama Palace,
New Delhi – 100 066.

3.Regional Provident Fund Commissioner [Exemption]
Employees Provident Fund Organization,
Bandra I, 341, Bhavisyya Nidhi Bhawan,
Bandra East, Mumbai – 400 051.

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to the respondents to calculate his pension as per the provisions of the employees' Provident Fund and Miscellaneous Provisions Act, to fix the correct pension to the petitioner,



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pay the same hereafter un-interruptedly, pay the difference for the period between 01.05.2017 to till date with interest, cost for this action.

For Petitioner : Mr.S.Seenivasagam

For Respondent : Mr.AL.Somayaji
No.1 Senior Counsel for
Mr.Perumal

For Respondent : Mr.A.John Xavier
Nos.2 and 3

ORDER

The petitioner an erstwhile employee of Bank of Madura has become an employee of ICICI Bank Limited pursuant to the merger of the Bank of Madura with ICICI Bank Limited with effect from 10.03.2001. The petitioner with grievance that he is provided with lessor pension other than the employees of the ICICI bank, has filed this writ petition seeking a direction to the respondents to provide him the correct pension by calculating his pension as per the provisions of the Employees Provident Fund and Miscellaneous Provisions Act [in short the EPF Act].

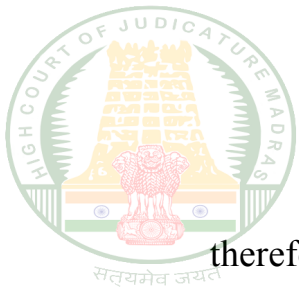
2.The case of the petitioner is that Bank of Madura was covered under the EPF Act and Pension Scheme was introduced under the EPF



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Act from the year 1995. The Bank of Madura was merged with ICICI Bank with effect from 10.03.2001 and accordingly the petitioner was observed into the services of ICICI Bank . Similarly Sangli Bank and Bank of Rajasthan were merged with ICICI Bank. The employees of Sangli Bank and Bank of Rajasthan were provided more pension than the petitioner / erstwhile employee Bank of Madura. Therefore, claiming discrimination on service conditions among the employees of the ICICI Bank, the petitioner sent a representation to the bank, that they have been discriminated and there is a violation of pension rules of the EPF Act. The said representation was rejected by the 1st respondent bank by their reply dated 23.03.2018 that he was provided with pension as per the applicable norms. Therefore, the petitioner has approached this court seeking the above relief of mandamus as against the 1st respondent bank.

3.Mr.AL.Somayaji, learned Senior Counsel appearing for the 1st respondent bank raised preliminary objection for the maintainability of this writ petition that the 1st respondent being a private bank, as against which seeking mandamus is not maintainable. Further the petitioner is covered under the Bank of Madura Pension Regulations 1995 and



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therefore, they are not covered under the EPF Act. The learned Senior Counsel relied on the judgment of the Division Bench and various other judgments of this Court submits that the issue of maintainability of writ petition as against the 1st respondent private bank was already decided and therefore, the petitioner cannot maintain this writ petition. The learned Senior Counsel has also relied on the judgment of a Division Bench of Bombay High Court in ***Vivek Vishnu Dixit and ors Vs The Reserve Bank of India and ors*** [WP.No.8082 of 2012 dated 16.12.2016] and submits that similar issue raised by the employees of erstwhile Sangli Bank was rejected by the Division Bench of Bombay High Court that the writ petition was not maintainable and the relief cannot be granted by way of mandamus.

4.The EPF organisation is also added as party to this writ petition as respondents Nos.2 and 3 and they have also raised preliminary objections as under:

(i)The 1st respondent Bank is an exempted establishment and as such the EPF Act and Employees' Pension Scheme of 1995 are not applicable to the 1st respondent bank and also to the writ petitioner.



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(ii) The petitioner who is the employee of ex-Bank of Madura is covered by contributory provident fund (CPF) as well as old age pension scheme framed in "Bank of Madura Employees' Pension Regulations, 1995" which is not covered under the EPF Act 1952.

(iii) The petitioner is an excluded employee and he is also not a member of the EPF Scheme 1995 and now he is receiving pension as per the rules in "Bank of Madura Employees' Pension Regulations, 1995". Therefore, the petitioner is not entitled to claim revised pension from the EPF Authorities

5.This court has considered the rival submissions and perused the materials placed on record.

6.The petitioner was an employee of Bank of Madura. In terms of the reference made by the Reserve Bank of India in its order dated 26.02.2001 the erstwhile Bank of Madura was merged with ICICI bank on 10.03.2001. The Bank of Madura maintained two types of retirement schemes,Contributory Provident Fund and Gratuity. As per the Bank of Madura Employees Pension Regulations, the employees who were in the



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services of the Bank as on 31.10.1993 were given an opportunity to opt for pension in lieu of Contributory Provident Fund.

7. According to the 1st respondent, there was no pension scheme for its employees. However in view of the pension scheme of erstwhile Bank of Madura the petitioner was provided with pension as per scheme. Similarly placed employees had approached this Court in WP.No.34351 of 2003 seeking mandamus directing the ICICI bank to grant pension in accordance with the regulations 36(2) read with 39 of the Bank of Madura and the said writ petition was dismissed on maintainability and on merits vide order dated 09.02.2007. The relevant portion is extracted as under:

“5.04. It is also an admitted fact that after amalgamation, the respondent bank revised the compensation structure for the officers of the transfer or bank effective 01.07 2001 in terms of agreement dated 29 06.2001 with the Officers Association of the petitioners, where in it was agreed after negotiations that the erstwhile Officers of the Bank of Madura would get monthly salary and Dearness Relief would be merged in Basic Salary”



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5.05 *The contention of the Respondent bank is that by virtue of the said agreement the pay structure of the petitioners was revised with the conversion of the variable Dearness Allowance into Fixed Dearness Allowance of which 25% was merged with the basic pay and remaining 75% of the fixed Dearness Allowances was to be merged with the basic salary in 3 equal annual instalments on 01.07.2002. 01.07.2003. 01.07.2004.*

5.06. *It is further contended that in terms of another agreement dated 10.09 2002 with the said Association, the ICICI Bank merged the balance Fixed Dearness Allowance with the basic salary with effect from 01 10 2002 onwards. Therefore the powerful argument of the banker is that the concept of Dearness Allowance ceased to be existence in the respondent bank.*

5.07 *It is further contended that in respect of other employees of ICICI bank there is no component of Dearness Allowance right from its yeception and there is no scheme for payment of pension for its employees. It is stated that the alignment of compensation of salary structure was made by the respondent bank for the benefit of the employees of Bank of Madura and as agreed in the*



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terms of the said agreement, the benefit of pension for the officers who opted for pension scheme existing as on the date of the merger of bank of Madura with ICICI bank.

6.00 Therefore the case of the petitioner is that the pension was contemplated based on the last drawn pay together with Dearness Allowance is not correct. It is admitted fact that at the time of revision of the compensation structure, there was an agreement to continue the existing pension scheme for the time being and there was no mutual settlement reached with reference to the pension issue. Hence and the pension is continued to be paid as per the existing pension scheme petitioners are granted pension which includes basic pension and applicable Dearness Relief even though the petitioners are not entitled for the same.”

8.The orders of the writ court in WP No.34351 of 2003 was challenged in writ appeal in WA.No.480 of 2007 and the same was dismissed on 09.02.2008 that no mandamus can be issued to compel payment of dearness allowance. The orders of the Division Bench was challenged before the Hon'ble Supreme Court and it was also dismissed.



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9. The similar claim made by the erstwhile employees of Sangli bank before the Bombay High Court in WP.No.8082 of 2012 was dismissed by the Bombay High Court on 16.12.2016 that the writ petition cannot be maintained and the relief cannot be granted. The same was also challenged before Hon'ble Supreme Court in SLP (D)No.15901 of 2017 and the Hon'ble Supreme Court dismissed the same on 31.01.2017.

10. The Employees' Provident Fund and Miscellaneous Provisions Act is applicable to all factories employing more than 20 employees by virtue of Section 1(3)(a) of the EPF Act. In case of establishments other than factories, the Government issue notifications under Section 1(3)(b) of the EPF Act to bring an establishment or a class of establishments under the EPF Act. In terms of notification issued under the said section of the EPF Act, in December 18, 1965, Banks having branches in a single State were brought under the coverage of the EPF Act 1952. Since the erstwhile Bank of Madura was a multi-State Bank, in terms of the said Notification of 1965, the erstwhile Bank of Madura was outside the purview of the EPF & MP Act 1952.



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11. In view of the above discussion, the writ petition is liable to be dismissed on the maintainability and also on merits. Accordingly the writ petition is dismissed. No costs.

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Index : Yes / No

DSK

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B.PUGALENDHI.J.,

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