IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.24284 of 2018

Premila David ...Petitioner

Vs.

1.The General Manager (P)
Syndicate Bank
Staff Welfare Association
Head Office, Manipal 576 104.

2.The Chief Manager
Syndicate Bank
Kodambakkam Branch
Kodambakkam
Chennai 600 024. ...Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent pertaining to the circular passed on 16.9.2010 in Circular No.242-2010-BC-PD-53-SWD, regarding "Syndicate Bank (Employees) Pension Regulation 1995-extending another option to join the existing pension scheme" and quash the same and direct the respondents to pay the pension benefits in accordance with the option form submitted by the petitioner to the first respondent and acknowledged by the second respondent.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.P.Raghunathan
for M/s.T.S.Gopalan & Co
for R1 & R2

ORDER

The petitioner challenges the circular dated 16.09.2010 issued by the first respondent. By the said circular, pursuant to the settlement dated 27.04.2010 entered into with the Workmen Unions and the Joint Note dated 27.04.2010 signed with the Officers' Organisations, an additional option for pension was extended to non-optees who were in the service of the Bank prior to 29.09.1995, continued to be in service on or after the said date, and had not opted for pension earlier. The principal grievance of the petitioner is that the said option was not made applicable to employees who were compulsorily retired from service by way of punishment.

2. The petitioner had served in the respondent Bank for more than 23 years and was compulsorily retired from service on account of misconduct, namely unauthorised absence. The order of compulsory retirement attained finality before this Court in the year 2010. At the time of compulsory retirement,

the petitioner did not opt for pension and instead chose to receive the provident fund.

3. In the above circumstances, the impugned circular dated 16.09.2010 was issued by the first respondent. The petitioner submitted an option form on 05.10.2010 seeking to become a member of the Pension Fund. As the said request was not considered, the petitioner approached this Court in W.P.No.32650 of 2013, seeking implementation of the settlement and Joint Note dated 27.04.2010 and for grant of pension from the date of retirement, i.e., 29.11.1999.

4. Pending consideration of the said writ petition, the petitioner filed the present writ petition challenging the circular, as the same denied her the option to become a member of the Pension Fund on the ground that she had been compulsorily retired. Subsequently, W.P.No.32650 of 2013 was disposed of on 04.08.2020, reserving liberty to the petitioner to canvass all the issues raised therein in the present writ petition.

5. Mr. Balan Haridas, learned counsel for the petitioner, submitted that the circular denying employees who were compulsorily retired from service the option to become members of the Pension Fund is contrary to Regulation 33 of the

Syndicate Bank Employees' Pension Regulations, 1995. He further submitted that the Pension Regulations, 1995 are statutory in nature and that the circular cannot override the provisions of the said Regulations. Therefore, the denial of the option is arbitrary and discriminatory.

6. Per contra, Mr. P. Raghunathan, learned counsel for the respondent Bank, submitted that an employee who has been compulsorily retired from service is not entitled to exercise the option to become a member of the Pension Fund, as provided under the impugned circular. He further contended that the petitioner has challenged the circular in its entirety and not specifically assailed Clause 7 thereof, which excludes compulsorily retired employees. He also submitted that the petitioner had not reimbursed the employer's provident fund contribution and, therefore, is not entitled to the relief sought.

7. It was further contended that, in the absence of any violation of a statutory right, the present writ petition is not maintainable.

8. In support of his submissions, the learned counsel for the respondent Bank placed reliance on the judgment of the Hon'ble Supreme Court in Bank of

India and others v. Muthyala Saibala Suryanarayana Murthy and another, reported in 2025 SCC OnLine SC 585.

9. The submissions of the learned counsel appearing on either side and the materials available on record have been duly considered.

10. It is not in dispute that the petitioner was compulsorily retired from service on account of misconduct and that the said order attained finality in the year 2010. It is also not in dispute that the petitioner did not opt for pension under the Pension Regulations and instead opted to receive the provident fund.

11. In such circumstances, the first respondent issued the impugned circular, pursuant to which the petitioner submitted an application in the prescribed form on 05.10.2010, opting to become a member of the Pension Fund within the stipulated time. However, the said application was not considered by the second respondent, compelling the petitioner to approach this Court in W.P.No.32650 of 2013.

12. Pending consideration of the said writ petition, the present writ

petition was filed challenging the validity of the circular. Though the circular was challenged in entirety, the grounds urged in the affidavit specifically assail Clause 7 of the circular, which denies the option to employees who were compulsorily retired from service.

13. The very similar Clause 7 was challenged before this Court in W.P.No.15766 of 2013. By order dated 01.04.2015, this Court held that the circular was issued only to provide another option to join the pension scheme and that the pension scheme continued to be governed by the Syndicate Bank Employees' Pension Regulations, 1995, which provide for compulsory retirement pension. It was further held that though Clause 7 of the circular restricted the benefit, the Pension Regulations had not been amended correspondingly. As long as the statutory Regulations provide for compulsory retirement pension, the benefit cannot be denied by a circular. It was also held that the Pension Regulations are statutory in nature and a circular cannot override the same.

14. Accordingly, Clause 7 of the circular was set aside and a direction was issued to consider the option exercised by the petitioner therein to join the Pension Scheme pursuant to Circular No.5690 dated 27.08.2010.

15. In view of the above, Clause 7 of the impugned circular is arbitrary and discriminatory and is liable to be set aside.

16. Though the circular was issued in the year 2010 and the petitioner exercised the option within the stipulated time, the petitioner had approached this Court in W.P.No.32650 of 2013, which was disposed of on 04.08.2020, pending adjudication of the present writ petition.

17. The petitioner has admittedly submitted the application in the prescribed form opting to become a member of the Pension Fund and has also expressed willingness to refund the entire employer's provident fund contribution with interest at the rate of 6% per annum.

18. The contention of the learned counsel for the respondent Bank that the petitioner is not entitled to the relief sought for want of reimbursement of the

employer’s provident fund contribution is untenable, as such reimbursement arises only upon acceptance of the option exercised by the petitioner.

19. The order passed by this Court in W.P.No.15766 of 2013 was affirmed by the Division Bench in W.A.No.891 of 2015 and was carried in SLP No.9784 of 2017. The Hon’ble Supreme Court, by order dated 28.07.2021, recorded that the Bank had issued a fresh circular dated 04.06.2020 extending pension benefits to compulsorily retired employees and, in view thereof, nothing survived for consideration in the Special Leave Petition.

20. Even prior to the filing of the present writ petition, the respondent Bank had issued a circular dated 13.07.2018 granting another option to compulsorily retired officers/employees to become members of the Pension Fund.

21. In light of the foregoing discussion, more particularly the order passed by Apex Court SLP No.9784 of 2017, this Court is of the considered view that the petitioner is entitled to become a member of the Pension Fund and to

receive pension with effect from September 2018, subject to reimbursement of the entire employer's provident fund contribution along with interest at the rate of 6% per annum from the date of receipt of the provident fund.

22. Accordingly, Clause 7 of Circular No.242-2010-BC-PD-53-SWD dated 16.09.2010 is quashed. The respondents are directed to consider the option exercised by the petitioner to join the Pension Scheme pursuant to the circular dated 13.07.2018, subject to the petitioner reimbursing the entire employer's provident fund contribution with interest at the rate of 6% per annum.

23. Upon receipt of the entire employer's provident fund contribution with interest @ 6% p.a. the respondents shall commence payment of pension to the petitioner with effect from September 2008. The aforesaid exercise shall be completed within a period of two months from the date of receipt of the amount. This order is passed in the peculiar facts and circumstances of the case and shall not be treated as a precedent. There shall be no order as to costs.

07.01.2026

Index : Yes/No
Speaking order : Yes/No
dna

HEMANT CHANDANGOUDAR.J.,

dna

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