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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4824/2025

Y.P. SETHI .....Petitioner

Through: Mr. Ankit Dhawan and Mr. Mohit Miglani, Advocate with Petitioner in person.

versus

UNION BANK OF INDIA .....Respondent

Through: Mr. O.P. Gaggar and Mr. Sachindra Karn, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **29.01.2026**

1. The Petitioner joined the services of the Respondent Bank as a Clerk on 9th July, 1971 and was promoted to the cadre of Officer with effect from 1st October, 1984. In the year 1993, a memorandum of charges was issued to him and disciplinary proceedings were initiated. Upon conclusion of the inquiry, the Disciplinary Authority, by order dated 11th February, 2000, imposed the penalty of dismissal from service. The Petitioner's statutory appeal and review were rejected.

2. Aggrieved, the Petitioner instituted W.P.(C) 2167/2002. During its pendency, by interim order dated 21st December, 2016, this Court directed reconsideration of the quantum of punishment, while recording concern that dismissal had the effect of wiping out retiral benefits earned across nearly three decades. The Bank thereafter passed an order dated 15th April, 2017 maintaining the penalty of dismissal.

3. The writ petition was finally disposed of by judgment dated 2nd September, 2024. The findings returned in the disciplinary proceedings were

not disturbed. The Bank, however, was directed to revisit the quantum of punishment in the light of the observations recorded in the interim order dated 21st December, 2016 and to pass a fresh reasoned order.

4. Pursuant to the above, the Bank passed an order dated 22nd November, 2024 modifying the penalty from dismissal to compulsory retirement under Regulation 4(h) of the Union Bank of India Officer Employees (Discipline & Appeal) Regulations, 1976, with effect from the date from which the penalty was to operate.

The pension option and the dispute

5. In the meantime, the Indian Banks' Association, by circular dated 16th March, 2018, introduced a second option to join the pension scheme for compulsorily retired employees. The Respondent Bank adopted the arrangement through Staff Circular No. 7116 dated 4th June, 2020 under the Union Bank of India (Employees') Pension Regulations, 1995. The eligibility clause, to the extent relevant, reads:

> *"5. **ELIGIBILITY**:*
> *5.1 In terms of Settlement/Joint Note dated 27th April 2010, another option for joining the existing Pension Scheme is to be extended to Compulsorily Retired employees / officers, who:*
> *(a) were in the service of the bank prior to 29th September 1995 and Compulsorily Retired from the service. of the bank on or before the date of the settlement i.e. 27.04.2010;*
> *(b) exercise an option in writing within 60 days from the date of offer, to become a member of the Pension fund; and*
> *(c) refund within 30 days after expiry of the said period of 60 days, the entire amount of the Bank's contribution to the Provident Fund and interest accrued thereon received by the employee/officer on compulsory retirement together with 56% of the said received amount as his/her share in contribution towards meeting the funding gap as per the said Settlement."*

6. Petitioner's gravamen relates to the communication dated 9th December, 2024, issued by Bank declining Petitioner's request to exercise

second option to join the pension scheme. The Petitioner contends that he satisfies the substantive eligibility criteria but has been unlawfully denied the benefit solely on the ground that the option was not exercised within the stipulated period of 60 days from the date of the offer.

Submissions

7. Counsel for the Petitioner submits that a rigid reading of clause 5.1(b) would lead to an untenable outcome. During the sixty-day window under the 2020 circular, the Petitioner stood dismissed and was outside the class for whom the second option was created. His eligibility arose only when the Bank, by order dated 22nd November, 2024, substituted compulsory retirement for dismissal. Refusal on limitation, in these circumstances, punishes him for a legal incapacity not of his making.

8. Counsel for the Respondent Bank, *per contra*, submits that the Petitioner had an earlier opportunity in 1995 to join the pension scheme while in service but chose not to exercise it. When the subsequent pension options were introduced in 2010 and later extended to compulsorily retired employees by circular dated 4th June, 2020, the Petitioner stood dismissed from service and was consequently outside the zone of eligibility. The later modification of penalty in 2024 cannot retrospectively reopen a closed window or create a fresh right to opt into the scheme.

9. It is further submitted that the 60-day option period prescribed under the Staff Circular dated 4th June, 2020 was a one-time measure arising out of an industry-wide settlement between the Indian Banks' Association and employee unions, approved at the governmental level. Permitting individual claims beyond the stipulated period would undermine the uniform settlement framework binding on all participating banks.

10. Counsel further contends that pension payments constitute a structured financial obligation of the Pension Fund, funded through defined contributions, and late inclusion of employees after a prolonged lapse of time would disturb the actuarial balance of the fund.

Analysis

11. The Court has considered the rival submissions. It is not in dispute that the Petitioner satisfies clause 5.1(a). He joined service on 9th July, 1971 and compulsorily retired on 01st February, 2000, i.e., before the date of settlement, i.e., 27th April, 2010 by virtue of the order dated 22nd November, 2024 passed pursuant to this Court's directions.

12. The controversy thus centres on compliance with clause 5.1(b). The pertinent question whether the Petitioner can be held disentitled for not exercising the option within the stipulated time.

13. The 2020 circular did not create a general, continuing right to opt for pension at any time. It extended a limited second option to a defined class: compulsorily retired employees/officers meeting clause 5.1(a), subject to clause 5.1(b) and (c). The time window has a clear purpose. It prevents open-ended uncertainty and allows the fund to receive the required refunds and gap contributions within an identified period.

14. That said, the time window presupposes that the person concerned is capable, in law, of exercising the option. Clause 5.1(b) cannot be read in isolation from the class definition in clause 5.1(a). A person who is not a "compulsorily retired" employee during the offer period does not have an option to exercise under this circular, because the offer itself is addressed to a different category.

15. On the dates that matter, the Petitioner was not within that category.

The Bank continued to treat him as dismissed. The legal character of the separation changed only when the Bank, pursuant to the final judgment dated 2nd September, 2024, modified the penalty to compulsory retirement by order dated 22nd November, 2024. Until then, the Petitioner could not have tendered an "option" reserved for compulsorily retired employees, because he was not one.

16. The Bank's contention that the later modification cannot "reopen" the option window misses the point. The Petitioner does not seek a general reopening. He seeks recognition of a more basic proposition: the clock cannot be run against a person at a time when the right itself was legally unavailable. The law does not insist on the impossible. A condition that demands performance when it is legally impermissible cannot be enforced to defeat a beneficial entitlement that otherwise squarely fits the scheme.

17. There is another dimension. This Court had, as early as 21st December, 2016, directed reconsideration of punishment after noticing the disproportionate civil consequences of dismissal on retiral entitlements. The Bank chose to maintain dismissal in 2017. It later altered course in 2024 under judicial directions. Once the penalty stands modified to compulsory retirement, the attendant consequences that follow cannot be denied by referring to a limitation period that expired only because the status itself was withheld.

18. The emphasis placed on an alleged non-exercise of the original pension option in 1995 does not advance the Respondent case. The present claim is not founded on the initial option available to serving employees. It arises from a later, distinct dispensation framed for compulsorily retired employees under the industry settlement and the implementing circular.

Once the Petitioner falls within that defined class after the penalty stood modified to compulsory retirement, the refusal cannot be justified by travelling back to an earlier option that belongs to a different category and a different scheme window.

19. The Bank's concerns about the sanctity of a uniform settlement and actuarial balance deserve weight. They are met by limiting relief to the exceptional situation presented here, and by insisting on strict compliance with the financial conditions of the scheme. The Petitioner must refund the provident fund contributions and interest received on separation, along with the stipulated additional contribution towards funding gap, exactly as clause 5.1(c) requires. If those amounts are received within the structured timelines fixed below, the fund's financial equilibrium is not compromised by a gratuitous late inclusion. The inclusion, in that event, occurs on the same financial terms as other beneficiaries of the second option.

20. Pension, in service jurisprudence, is not a discretionary dole. It is a deferred benefit earned by service, regulated by statute and scheme, and protected from arbitrary denial. The Supreme Court has consistently treated pension as a valuable right and a social security measure rather than a bounty. The present relief does not override the scheme. It prevents the scheme from being applied in a manner that defeats its object in a case where eligibility was made possible only by a later corrective decision.

21. For these reasons, the refusal dated 9th December, 2024 cannot be sustained. The Petitioner is entitled to a fresh and effective opportunity to exercise the second option within a reasonable time from the date he became, in law, a compulsorily retired employee.

Directions

22. The petition is allowed in the following terms:

(i) The communication dated 9th December, 2024 is set aside.

(ii) The Respondent Bank shall, within two weeks from the date of this judgment, issue to the Petitioner a written intimation enabling exercise of the second pension option under the Indian Banks' Association circular dated 16th March, 2018 and Staff Circular No. 7116 dated 4th June, 2020. The Bank shall also quantify, in the same communication, the amounts payable under clause 5.1(c), including the provident fund contribution, interest and the additional contribution towards funding gap, with the calculation sheet.

(iii) The Petitioner shall exercise the option in writing within 15 days from receipt of the communication under clause (ii).

(iv) Upon exercise of the option, the Petitioner shall deposit the quantified amounts strictly in accordance with clause 5.1(c) within thirty days of expiry of the 15 days option period.

(v) On compliance with the above, the Bank shall process the claim and issue the pensionary authorisation and release consequential benefits in terms of the governing circulars and regulations, within eight weeks thereafter.

23. The petition stands disposed of in the above terms.

SANJEEV NARULA, J

JANUARY 29, 2026
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