

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 21371 of 2017

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.Y. KOGJE

Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

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KIRITKUMAR LALLUBHAI CHAUHAN

Versus

CENTRAL BANK OF INDIA

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Appearance:

MR NAVALDAN R LANGA(2943) for the Petitioner(s) No. 1

ANISH P CHARI(8111) for the Respondent(s) No. 1

MR PS CHARI(215) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE A.Y. KOGJE

Date : 28/09/2022

ORAL JUDGMENT

1. This petition under Article-226 of the Constitution of India is filed with following prayers:

“A. Your Lordships may be pleased to issue writ in the nature of

Mandamus or any other appropriate writ, direction or order, directing the respondent bank to act according to the established principles of law and grant the petitioner his lawful right to exercise a second option for joining the pension scheme as per the provisions of the Joint Note dated 27.04.2010.

B. Your Lordships may be pleased to grant such other relief or reliefs as may be deemed just and proper in the circumstances and grounds narrated in the present petition.”

2. The issue pertains to the grant of pension to the petitioner, considering the case of the petitioner to have resigned from the service. The respondent-Bank has treated the petitioner to be ineligible for the purpose of pension under the Scheme.
3. At the outset, it is observed that learned Advocate appearing for the respondent-Central Bank of India has remained consistently absent. Today, also when the matter is called out, learned Advocate for the respondent-Bank is absent. Hence, matter is taken up for hearing and final disposal with the assistance of the learned Advocate for the petitioner and the pleadings filed on behalf of the respondent-Bank, as the matter being of the year 2017.
4. It is the case where admittedly the petitioner has been in service for a period of 30 years with the respondent-Bank and at one stage, was compelled to make an application for resignation on account of his personal grounds. At that stage, there was no VRS Scheme, which was in operation or else the petitioner would have availed of the benefit. It is submitted that the petitioner would have been entitled to apply under the VRS and still claim benefits available under the Pension Scheme.
5. Learned Advocate for the petitioner has drawn attention of this Court to letter of denial of the pension to the petitioner by stating that case of

the petitioner was not covered under the categories, which were specifically selected for applying the Pension Scheme. According to the ld. Advocate for the petitioner, case of the petitioner will fall in Category, which is covered under Clause-2(a) of the Joint Note as the petitioner was in service on the date on which the Joint Note was signed.

6. It is submitted that Joint Note was signed on 27-04-2010, the date on which the petitioner was in service and though the petitioner had made an application for resignation, his resignation was accepted only on 30-04-2010 after Office Hours and therefore, for all practical purpose, the petitioner was in service on the date of signing of the Joint Note and therefore, his case would be covered under the Pension Scheme.
7. Affidavit in reply on behalf of the respondent-Bank takes up the contention that Regulation-22 of the Central Bank of India (Employees) Pension Regulations 1995, provides that in case of resignation or dismissal or removal or termination of the employee from the service of the Bank, shall entail forfeiture of his entire past service and consequently, not qualify for pensionary benefits.
8. Having considered the rival submissions of the parties and having perused the documents on record, it appears that the petitioner was appointed with the Central Bank of India on 10-04-1978 and had made an application for resignation on 17-07-2009 citing medical reasons of the wife. The application for resignation was in principle accepted by communication dated 18th February, 2010. However, the petitioner was to be relieved as per the aforesaid Communication upon the date that would be intimated in future and accordingly, the petitioner was informed on 30-04-2010 about his resignation application being accepted by the respondent-Bank and to be relieved from the service of respondent-Bank with effect from 30-04-2010.
9. It appears that the petitioner had made an application for pension on

22-09-2010, which came to be rejected by Communication dated 25th November, 2010, wherein the petitioner was informed that option for pension was extended only to the categories namely; (i) Serving Employee/Employees who retired after 27th April, 2010, (ii) Retired Employees, (iii) Family of the Deceased Employees and (iv) Retired under CBIEVRS, 2001 and no other categories would be covered. Therefore, the petitioner was informed that as the petitioner was not covered under any of the aforesaid option, his pension option was not considered.

10. At this stage, it would be appropriate to refer to Annexure-A, which is the Joint Note dated 27-04-2010 with the Officers Organization for extending another option to join the Pension Scheme to those who did not opt for pension earlier. The relevant Clause-2 reads as under:

“(2) (a) were in the service of the bank prior to 29th September 1995 in case of Nationalized Banks / 26th March 1996 in case of Associate Banks of State Bank of India and continue in the service of the bank on the date of this Joint Note;
(b) exercise an option in writing within 60 days from the date of offer, to become a member of the Pension Fund and
(c) authorise the Trust of the Provident Fund of the bank to transfer the entire contribution of the bank along with interest accrued thereon to the credit of the Pension Fund.”

11. In the opinion of the Court, requirement for applying Pension Scheme, in the facts of the present case, is that the petitioner ought to have been in service of the respondent-Bank prior to 29th September, 1995 and was in continuing service of the respondent-Bank till the date of the Joint Note. Admittedly, the Joint Note was signed on 27th April, 2010, which is evident from the documents placed at Annexure-A containing

the names of signatories both on the side of Indian Bank Associations as well as of All India Bank Officers' Confederation.

12. The above chronology of event as set out in the preceding paras would definitely cover the case of the petitioner in the Clause-2(a) and therefore, holding the petitioner not to be covered under any of the category specified in the Clause-2(a) is an error committed by the respondent-Bank. It is observed that the petitioner has completed 31 years of service and that qualifying service for pension is 20 years as per Regulation and therefore, in any case, the petitioner has completed qualifying service period for the purpose of pension.
13. With the aforesaid reasoning, the Court holds that the petitioner is entitled to the benefits under the Pension Scheme. The impugned Communication dated 25-11-2010 (Annexure-E) therefore is ordered to be quash and set aside. The case of the petitioner be treated accordingly. The petitioner through his Advocate undertakes that he shall comply with all the requirement of the Scheme including refunding of the amount/benefits received under any other scheme as part of retirement benefits in place of pension in accordance with the policy followed by the respondent bank, if necessary.
14. ***The petition stands allowed.*** Rule is made absolute to the aforesaid extent with no order as to costs.

PARESH SOMPURA

Sd/-
(A.Y. KOGJE, J)