

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2021

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.48905/2018 (S – R)

BETWEEN

CANARA BANK RETIRED OFFICERS' ASSOCIATION
NO.1 & 70, FIRST FLOOR,
P.B.NO.1163, 9TH MAIN,
3RD BLOCK, JAYANAGAR,
BENGALURU – 560 011.

REPRESENTED BY ITS
VICE PRESIDENT MR.E.SAMPATH KUMAR,
S/O K EZRA FRANCIS CHRISTIAN,
AGED ABOUT 64 YEARS.

... PETITIONER

(BY SRI TARUN SUNDARAM, ADVOCATE FOR
SRI SUNDARAM K., ADVOCATE (PHYSICAL HEARING))

AND

1. THE SECRETARY MINISTRY OF FINANCE
GOVERNMENT OF INDIA,
DEPARTMENT OF FINANCIAL SERVICES,
“JEEVAN DEEP”,
10, PARLIAMENT STREET,
NEW DELHI – 110 001.
2. THE CHAIRMAN
INDIAN BANKS' ASSOCIATION,
MUMBAI WORLD TRADE CENTRE COMPLEX,
CENTRE 1, 6TH FLOOR,
CUFFE PARADE,

MUMBAI – 400 005.

3. THE MANAGING DIRECTOR AND
CHIEF EXECUTIVE OFFICER,
CANARA BANK, H R WING, I R SECTION,
HEAD OFFICE, 112, J.C.ROAD,
BENGALURU – 560 002.

... RESPONDENTS

(BY SRI T.P.MUTHANNA, ADVOCATE FOR R3 (PHYSICAL
HEARING);
R1 AND R2 ARE SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
ISSUE A WRIT OF MANDAMUS AGAINST THE
RESPONDENTS DIRECTING TO COMPLY WITH THE
PENSION REGULATIONS IN FORCE AND TO UPDATE THE
BASIC PENSION PERIODICALLY AS MANDATED BY
REGULATION 35(1) AND 56 ESPECIALLY TO THE THIRD
RESPONDENT TO IMPLEMENT PENSION UPDATION FOR
ALL THE RETIREES OF PETITIONERS' ASSOCIATION OF
CANARA BANK.

THIS WRIT PETITION HAVING BEEN HEARD AND
RESERVED FOR ORDERS ON 13.01.2021, COMING ON
FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE
FOLLOWING :-

ORDER

Petitioner in this writ petition has sought for a
direction by issuance of a writ in the nature of
mandamus directing the 2nd and 3rd respondents to
update basic pension periodically as mandated under

Regulation 35(1) and 56 of the Canara Bank (Employees') Pension Regulations, 1995 (hereinafter referred to as the 'Regulations' for short).

2. Heard Sri Tarun Sundaram, learned counsel for petitioners and Sri T.P. Muthanna, learned counsel for respondent No.3 and perused the material on record.

3. Brief facts of the case leading to the filing of the present petition as borne out from the pleadings are as follows:

The petitioner who claims to be the Vice President of Canara Bank Retired Officers' Association has filed this petition seeking updation of pension in terms of Regulation 35 of the Regulations. The petitioner claims that members of his Association are all employees who have retired from the 3rd respondent - Canara Bank between 1996 and 2002 and are entitled to updation in pension in terms of the Regulations. To consider this plea of the petitioner, the genesis of the pension

regulations in the Banking Industry is required to be noticed.

4. Prior to introduction of pension in the Banking Industry there were only two terminal benefits, provident fund and gratuity. A demand for the third terminal benefit 'pension' as was available in the Reserve Bank of India, arose from the Unions of the Banking Industry. This resulted in a statutory settlement between the workmen of the Banks through their representative Unions and the Indian Banks Association and a joint note insofar as it pertains to officers on the same lines. This settlement was arrived at on 29.10.1993. The settlement had to be approved by the Union of India which came about on 29.09.1995 by way of promulgation of Canara Bank (Employees') Pension Regulations, 1995. Regulation 35 of the Regulations reads as follows:

"35. Amount of Pension:-

(1) Basic Pension and additional pension, wherever applicable, shall be updated as per the formulae given in Appendix I.

(2) In the case of an employee retiring in accordance with the provisions of the Service Regulations or Settlement after completing a qualifying service of not less than thirty three years the amount of basic pension shall be calculated at fifty per cent. of the average emoluments.

(3) (a) Additional pension shall be fifty per cent of the average amount of the allowances drawn by an employee during the last ten months of his service;

(b) no dearness relief shall be paid on the amount of additional pension.

Explanation :- For the purpose of this sub-regulation "allowance" means allowances which are admissible to the extent counted for making contributions to the Provident Fund.

(4) Pension as computed being aggregate of sub-regulations (2) and (3) above shall be

subject to the minimum pension, as specified in these regulations.

(5) An employee who has commuted the admissible portion of his pension as per the provisions of regulation 41 of these regulations shall receive only the balance of pension, monthly.

(6) (a) In the case of an employee retiring before completing a qualifying service of thirty-three years, but after completing a qualifying service of ten years, the amount of pension shall be proportionate to the amount of pension admissible under sub-regulations (2) and (3) and in no case the amount of pension shall be less than the amount of minimum pension specified in these regulations.

(b) Notwithstanding anything contained in these regulations, the amount of invalid pension shall not be less than the ordinary rate of family pension which would have been payable to his family in the event of his death while in service.

(7) The amount of pension finally determined under this regulation shall be expressed in

whole rupee and where the pension contains a fraction of a rupee it shall be rounded off to the next higher rupee.”

The petitioner relies on the aforesaid Regulation to contend that the basic pension and additional pension wherever applicable should be updated as per the formula given in Appendix-I. Appendix-I reads as follows:

*“APPENDIX – I
(See Regulation 35)*

*1. The formula for updating basic pension and additional pension in respect of employees who retired during the period **01.01.1986 to 31.10.1987** shall be as under:-*

- | | |
|---|---------------------|
| <i>(1) A. (a) 50 per cent of first
Rs.1000 of the average
emoluments reckonable for
pension</i> | <i>Rs._____</i> |
| <i>(b) 45 per cent of next Rs.500</i> | <i>Rs._____</i> |
| <i>(c) 40 per cent of the average
emoluments reckonable for
pension exceeding Rs.1500</i> | <i>Rs._____</i> |
| <i>Total of (a+b+c)</i> | <i>Rs._____ (A)</i> |

*B. 50 per cent of the average
monthly emoluments for
the last 10 months in*

service prior to retirement Rs. _____(B)

C. Dearness Relief at index number 600 in the All India Average Consumer Price Index for Industrial Workers in the series 1960=100, on basic pension calculated at (A) above, as per Table given below. Rs. _____(C)

D. Total basic pension
 $= (B) + (C) \times \text{Number of years}$
of qualifying service (Maximum of 33 years)
 33
 Rs. _____(D)

E. Basic pension as on 01.11.1993
 (Rounded off to the next higher rupee) Rs. _____(E)”

Appendix-I categorically restricts the application of updation of pension only to those employees who retired during the period between 01.01.1986 to 31.10.1987.

Further reliance is placed on Regulation 56 of the Regulations, which reads as follows:

“56. Residuary provisions: In case of doubt, in the matter of application of these regulations, regard may be had to the corresponding provisions of Central Civil Services Rules, 1972 or Central Civil Services (Commutation of Pension) Rules, 1981 applicable for Central Government employees with such exceptions and modifications as the Bank, with the previous sanction of the Central Government, may from time to time, determine.”

Regulation 56 deals with a residuary provision to be considered when in doubt. It is also germane to notice Regulation 4 which reads as follows:

“4. Option to subscribe to the Provident Fund- (1) Notwithstanding anything contained in sub-regulation (4) of regulation 3, an employee who joins the service of the Bank on or after the notified date at the age of thirty five years or more, may, within a period of ninety days from the date of his appointment, elect, to forego his right to pension, whereupon these regulations shall not apply to him.

(2) The option referred to in sub regulation (1) and regulation 3, once exercised, shall be final.”

Option once exercised under these Regulations would be final.

5. It is not known who are the members of the petitioner-Association; what are the dates of their entry into service and their retirement; what is the pension that they are drawing and as to whether all of the members of the Association have retired between 01.01.1986 to 31.10.1987. It is only certain representations that are given in terms of Annexure-C, a few facts can be gathered. But even here, the dates of retirement of any of the employees of the Association is not forthcoming. The representation also is given by the petitioner herein seeking updation of pension.

6. With the aforesaid bald details about who are the affected persons, making mere making bald

statements that pension needs to be updated with, giving sketchy details, cannot result in a mandamus being issued to the respondents even to consider the representations.

7. The Regulations have come about on 29.09.1995. It is presumed that the Members of the Association have all opted for pension as they are seeking updation of pension. The Regulation or the Appendix which restricts updation of pension only to employees retired between 01.01.1986 to 31.10.1987 is not called in question. Therefore, the petitioner has not made out any right whatsoever in law to even direct respondents 2 and 3 to consider the representations, as even for issuance of a writ in the nature of mandamus, the demonstration of a right of the petitioner is *sine qua non* and then a correspondent obligation on the part of the respondents would emerge.

8. In my considered view, petitioner-Association has miserably failed to demonstrate any rights of theirs being infringed for entertaining this petition under Articles 226 and 227 of the Constitution of India.

9. Insofar as the judgments relied on by the learned counsel appearing for the petitioner is concerned, they are all distinguishable on the facts of the case without much ado, as everyone of them deal with the concept of pension and not a right to the employees to seek pension *dehors* their entitlement under the Regulation. Therefore, I do not find any merit in this petition in the form that it is presented.

Writ petition is ***dismissed***.

**Sd/-
JUDGE**