(2005) 04 MAD CK 0015

In the Madras High Court

Case No : Writ Petition Nos.4858, 4859, 7784, 7785, 16458, 16528, 16788, 16789, 21379, 21582 of 2001 and 7313 and 7314 of 2003 and W.P.M.P. No''s. 9427 and 9429 of 2001

K. Venkatesan and Others APPELLANT

Vs

State Bank of India RESPONDENT

Date of Decision : 28-04-2005

Acts Referred:
Constitution of India, 1950 — Article 14

Citation : (2006) 1 LLJ 1048

Hon'ble Judges : Markandey Katju, C.J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : K. Chandru for Aiyar and Dolia, in in W.Ps. 4858, 4859, 16458, 16528, 7784, 7785, 16788 and 16789/2001 and Petitioner No. 33 in W.P. 4858 and 4859/2001 and for Petitioner No. 150 in W.P. 7784 and 7785/01, A. Saravanan, in W.P. 21582 and 21379/01 and K. Rajasekaran, in W.P. 7313 and 7314 of 2003, for the Appellant; R. Krishnamoorthy for B. Rajendran, for the Respondent

Final Decision : Dismissed

Judgement

Markandey Katju, C.J.—The above two writ petitions and the connected writ petitions are disposed of by this common order, since

common questions of law and facts are involved. We are treating W.P. Nos. 4858 and 4859 of 2001 as the leading cases.

2. We have heard the learned counsel for the parties in all these petitions and have perused the record.

3. W.P.No.4858 of 2001 has been filed for an appropriate writ, order or direction declaring Clause 7 captioned ""Other Features"" in the Circular

No.Cir D.O. VRS:1 dated 02.01.2001 issued by the 2nd respondent as void, illegal and unconstitutional.

4. The prayer in W.P.No.4859 of 2001 is for the issuance of a writ, order or direction declaring the impugned order in Letter

No.HRD/CDO/VRS/764 dated 02.02.2001 of the 3rd respondent therein and the consequent impugned order of the 2nd respondent therein in

Letter No.HRD/CDO/VRS/853 dated 23.02.2001as void, illegal and unconstitutional.

5. Clause - 7 of the impugned Circular No.Cir D.O. VRS:1 dated 02.01.2001 states:-

OTHER FEATURES

The Bank intends to control the outflow according to its requirements. Towards this end, the Bank retains the discretion to limit the number of

employees allowed to retire in each category of staff viz., officer/clerical-cash/ subordinate, to be covered under SBI VRS. As such the Bank will

have the sole discretion as to the acceptance or the rejection of the request for retirement under SBI VRS depending upon the requirements of the

Bank. For the purpose of exercising discretion in this regard, category wise lists of eligible applicants would be prepared in descending order of

their age and application of employees coming in higher age groups above cut-off age would be accepted; the cut-off age in each category will of

course depend upon the acceptable number of employees who can be permitted to retire.

No voluntary retirement shall be deemed to have come into effect unless the decision of the Competent Authority has been communicated in

writing.

6. It appears that the Central Board of Directors of the respondent-bank vide resolution passed in its meeting held on 27.12.2000 approved a

scheme called SBI Voluntary Retirement Scheme (hereinafter referred to as SBI VRS) for all officers and employees of the bank. The salient

features of the said scheme as narrated in the affidavit filed in support of the Writ Petition No. 4858 of 2001 as (i) and (x) are as follows:

(i) All permanent employees i.e. officers and other employees, with 15 years of service or 40 years of age are eligible to opt for voluntary

retirement under SBI VRS except those who have executed bonds and have not completed it or those who are serving abroad under special

arrangements/bonds or those against whom disciplinary proceedings are contemplated/pending or are under suspension or those who were

appointed on contract basis or those who are highly skilled and qualified staff or specialist officers or watch & ward staff.

(x) The competent authority shall have discretion either to accept or reject the request of an officer/employee seeking voluntary retirement under

the Scheme depending upon the requirement of the Bank.

7. Subsequent to the aforesaid resolution, the 2nd respondent issued an order vide Circular No. Cir.D.O.VRS:1 dated 02.01.2001 advising all

offices/branches in Chennai circle, detailing salient features of the SBI VRS and saying that the said Scheme would open on 15.01.2001 and shall

remain open till 31.01.2001. It is alleged by the petitioners in W.P. No. 4858 of 2001 that all the petitioners have opted for SBI VRS within the

time frame and they are eligible for exercising the option for SBI VRS and have complied with all the formalities well within time.

8. It is alleged in paragraph - 10 of the affidavit filed in support of the Writ Petition No. 4858 of 2001 that the petitioners are less than 55 years of

age. It is alleged in paragraph - 19 of the petitioners'' affidavit that the Deputy Managing Director and CDO of the respondent bank issued an

order in Letter No. HRD/CDO/VRS/764 dated 02.02.2001 stating that the officers who are eligible for voluntary retirement should have

completed 55 years of age on or before 31.12.2000. It is alleged that this new condition is totally arbitrary and illegal and contrary to the decision

of the Central Board of Directors of the respondent - bank.

9. In paragraph - 20 of the petitioners'' affidavit it has been alleged that the Managing Director and Group Executive (CD) of the respondent -

bank had issued an order on 23.02.2001 bearing Letter No. HRD/CDO/VRS/853 stating that the applicant should be at least 55 years of age to

be entitled to SBI VRS. It is further alleged that the respondent-bank permitted clerks and sub-staff to get the benefit of SBI VRS without any

restriction, and therefore, the above cut-off age is discriminatory, as it has only been fixed for the officers of the bank. It is also alleged that this cut-

off age of 55 years is arbitrary and illegal.

10. It is further alleged that the respondents had no power or authority to go against the criteria set up by the Central Board of Directors in its

meeting held on 27.12.2000.

11. A counter affidavit has been filed by the respondent-bank in W.P. No. 4858 of 2001, and we have perused the same. In paragraph - 5 of the

said counter affidavit it is alleged that a memorandum had been drawn up and put up for the consideration of the Central Board of Directors of the

State Bank of India outlining the salient features of the voluntary retirement scheme for its approval. It is alleged that in the said memorandum it was

mentioned that the eligible persons are those who have completed 40 years of age or have put in 15 years of service. It was also stated in the said

memorandum that the management will retain the discretion as to whether to accept or not to accept the request for voluntary retirement, as the

bank was required to control the outflow of the employees for its normal functioning. Specific provision was made in this regard in the scheme to

limit the number of employees allowed to retire in each category of staff to be covered under SBI VRS. A list of eligible applicants was required to

be prepared categorywise in the descending order of their age, and the applications of employees coming under higher age groups above the cut-

off age were to be accepted. This cut-off age was also to depend upon the acceptable number of employees who can be permitted to retire. The

bank had drawn an estimate and Rs. 2,100 crores were required for the implementation of the SBI VRS reckoning that 10% of the employees

would opt for retirement. The draft SBI VRS along with the memorandum was considered by the Central Office of the SBI in its meeting held on

27.12.2000, and the Board accorded its approval for implementing the scheme.

12. It is mentioned in the counter affidavit that Clause - 7 of the Scheme specifically provided that the bank retains discretion to limit the number of

employees to be retired in each category of staff depending upon the requirements of the Bank. The said clause also lays down that categorywise

lists of eligible applicants would be prepared in descending order of their age and applications of employees coming in higher age groups above

cut-off age would be accepted. The Scheme also incorporated the right of the bank to modify amend or cancel any or all of the aforesaid clauses

of the scheme. The 2nd respondent in W.P. No. 4859 of 2001 had by circular dated 02.01.2001 circulated the SBI VRS Scheme to all the

offices/branches of the SBI, Chennai Circle along with a copy of the Scheme and format of the application. The said application also contained an undertaking to be given by the employees to the effect that they agree that the bank has a right to modify, amend or cancel any or all the clauses of

the Scheme.

13. In paragraph - 8 of the counter affidavit it is stated that the Scheme was kept open from 15.01.2001 to 31.01.2001, and during the above

period 35,380 applications had been received. The categorywise break-up of those applications are as under:

Category Actual Strength No. of applicants %

Officers 59,474 19,295 32.44

Clerical-cash 1,15,424 12,948 11.22

Sub-staff 58,535 3,137 5.36

14. It is alleged in the counter affidavit that it could be seen from the above statistics that there were a very large number of applications from the

officer''s category to the extent of 32.44% of the existing strength who opted for the SBI VRS, while in the clerical and sub-staff categories the

number of applications are well within the expected range, namely, around 10%.

15. It is alleged in the counter affidavit that if all the applications of the officers were accepted, it would have resulted in a sudden exodus of a large

number of officers of the bank, which would have destabilised the normal operation of the bank. In those circumstances, the matter was re-

examined and it was decided to restrict the number of officers who would be allowed to retire under VRS to around the range of 10%. It was

found that the number of officers applying for the voluntary retirement above the age of 55 years were 7983 which worked out to approximately

13.42%. Taking note of Clause 7 of the Scheme and also the guidelines laid down therein, the cut-off age in the case of officers for the purpose of

retirement under the Scheme was therefore decided to be fixed at 55 and above.

16. It is also stated that if the cut-off age is fixed as 54 years the officers retiring under the Scheme would be 10,590 which would amount to

17.81% of the total number of officers. It was in this background that the cut-off age was fixed as 55 in the case of officers, and the same was

approved by the Chairman of the SBI on 01.02.2001. The said decision was accordingly communicated by letter dated 02.02.2001 of the 3rd

respondent, who is the authorised person under the Central Board Memorandum approved on 27.12.2000. It is alleged that there is no arbitrariness at all.

17. In paragraph - 9 of the counter affidavit it is stated that there is no discrimination at all in view of what is stated in paragraph - 8 of the counter affidavit. The action taken by the third respondent, which has also got the approval of the Chairman of the SBI, was only in the matter of implementing the scheme by fixing the cut-off age taking into account the factors specified in the scheme itself. It is alleged that there are 9005 branches of the SBI all over the country apart from 50 branches abroad. Therefore it is neither possible nor in public interest to allow all the applications of officers category who seek voluntary retirement under the scheme since the same would lead to a sudden exodus which would destabilize the normal operation of the bank. It is further alleged that the bank had also planned the scheme taking into account the financial outlay of Rs. 2100 crores or thereabout reckoning the optees to be around 10% in each category. If the number of optees is far above 10% the bank will have to face an additional huge financial burden. It is also alleged that the management of the bank has got to be carried out and exercised on business principles taking into account the public interest. It is alleged that the acceptance of the contention of the petitioners would not only result in the sudden exodus causing detriment to the normal functioning of the bank, but also lead to serious financial implications which would affect the public interest.

18. It is alleged in the counter affidavit that the matter was again considered by the CENMAC as to whether it is possible to include persons less than 55 years in the officers category for voluntary reitirement. However, taking into consideration the financial outlay and the huge additional expenditure which would be involved it was resolved to continue as declared earlier on 01.02.2001 to keep the cut-off age at 55 years. It is alleged that pursuant to this decision the communication dated 23.02.2001 was issued which was only in consonance with the approval dated 01.02.2001.

19. In our opinion, there is no merit in these petitions. As stated in paragraphs 8 and 9 of the counter affidavit of the respondent-bank, taking into consideration the sudden exodus of large number of officers and the financial

implications which would be caused if the original criteria was

implemented the cut-off age was fixed at 55 years. If the bank stuck to the initial decision of providing the benefit of SBI VRS to all those who

have put in 15 years of service or completed 40 years of age, the result would have been that about 32.44% of the existing officers would have left

the bank and there would have also been heavy additional financial burden on the bank. Hence, there was nothing arbitrary or illegal in re-fixing the

cut-off age. We see nothing arbitrary or illegal in clause - 7 of the circular dated 02.01.2001. Clause - 7 of the said circular only incorporates a

policy decision and it is well settled that the Courts cannot ordinarily interfere with policy decisions and administrative decisions vide Tamil Nadu

Electricity Board v. Tamil Nadu Electricity Board Engineers'' Association (2005) 1 M.L.J. 507 Union of India v. International Trading Company,

J.T. (2003) 4 S.C. 549:(2003) 51 A.L.R. 598, G.B. Mahajan and others Vs. The Jalgaon Municipal Council and others, , Krishnan Kakkanth

Vs. Government of Kerala and ohters, .

20. As regards cut-off date, it is now well settled that ordinarily the Court cannot interfere with a cut-off date even if there is no reason forthcoming

for fixing the cut-off date vide State of Bihar and others Vs. Ramjee Prasad and others, (vide paragraph - 8).

21. We are of the opinion that fixing of cut-off age at 55 years is reasonable, in view of the averments made in paragraphs 8 and 9 of the counter

affidavit. There is no violation of Article 14 of the Constitution of India merely because no cut-off age has been fixed for non-officers for giving the

benefit of the voluntary retirement scheme. Officers and non-officers belong to different categories, and moreover the number of non-officers

opting for VRS are about 10% whereas the applications in the officers category was 32.44% which is much more than 10%. Hence, there is no

discrimination.

22. For the reasons given above, we find no merit in these petitions and they are all dismissed. No costs. Consequently connected W.P.M. Ps. are

closed.

