

(2026) 02 BOM CK 1602

In the Bombay High Court

Case No : Writ Petition No.4746 Of 2022

Sandeep Lahiri Choudhury & Anr

APPELLANT

Vs

Small Industries Development Bank of India & Ors

RESPONDENT

Date of Decision : 09-02-2026

Acts Referred:

Small Industries Development Bank of India Act, 1989 — Section 52(1), 52(3)

Citation : (2026) 02 BOM CK 1602

Hon'ble Judges : R.I. Chagla, J; Advait M. Sethna, J

Bench : Division Bench

Advocate : Ramesh Ramamurthy, Saikumar Ramamurthy, Aalim N. Pinjari, Anand Pai, Rahul Sanghavi, Ajinkya Kadam, Sanjay Udeshi

Final Decision : Dismissed

Judgement

R.I. Chagla, J

1. Rule. Rule made returnable forthwith. Heard by consent of parties.
2. By this Writ Petition, the Petitioners are seeking quashing and setting aside Clauses 3(VIII) and 4(IX) of the impugned Circular dated 29th June, 2022 (Exhibit-N to the Petition). Further direction is sought against the Respondents to pay all the retired employees and family members of the deceased employees the pension from the respective date of superannuation or the date of retirement and also pay the arrears arising out of such payment of Pension from the date of superannuation / retirement date till the current date.
3. The relevant facts leading up to the filing of the present Writ Petition are as follows:
 - (i) The Petitioners are the persons who have retired from the Small Industries Development Bank of India ("SIDBI") in various posts as per the particulars given in Exhibit-A to the Petition and are claiming pensionary benefits from their respective dates of superannuation or date of retirement which has been denied

to them by the impugned HRD Vertical Circular No.16/2022-2023 dated 29th June, 2022 issued by Respondent No.3.

(ii) Respondent No.1 – SIDBI is a statutory corporation created under an Act of Parliament and having its corporate address as shown in the cause title. Respondent No.2 is the Chairman and Managing Director of SIDBI having its address as shown in the cause title. Respondent No.3 is the Head of the HRD in SIDBI who has issued the impugned Circular dated 29th June, 2022.

(iii) SIDBI was created by an Act of Parliament dated 25th October, 1989 and had initially introduced Pension Regulations of 1993. It is pertinent to note that it is the Petitioners' case that at the relevant point of time of introduction of the Pension Regulations, it was not disclosed to the employees of SIDBI that the said Pension Regulations of 1993 were not introduced by following mandatory procedure as required under Section 52(1) read with Section 52(3) of the SIDBI Act, 1989 which requires that the said Regulations should be with the prior approval of the Industrial Development Bank of India ("Development Bank") and that it should be notified in the official gazette and the said Regulations should be placed before both houses of Parliament for a total period of 30 days in one or two sessions and then such Regulations would come into effect as modified by the Parliament. The Petitioners have further claimed that though the Pension Regulations of 1993 were with the approval of the Development Bank, they were not notified in the official gazette nor were the said Pension Regulations of 1993 placed before both houses of Parliament. It is accordingly the Petitioners' case that the said Pension Regulations of 1993 were never brought into force and can be at the most said to be executive instructions or Regulations in draft form having no effect in law and not creating any rights in favour or against any employee.

(iv) SIDBI had thereafter introduced Pension Regulations of 2002 by following the requisite procedure. Prior to notification of the 2002 Pension Regulations, a Board Memorandum was put up on 6th May, 2002. It is the Petitioners' case that the Pension Regulations when placed before the Parliament pursuant to a specific query raised by the Rajya Sabha Committee on Subordinate Legislation as to whether the 2002 Pension Regulations were issued in supersession of the 1993 Pension Regulations, it was admitted by the Ministry of Finance before the said Committee that the 1993 Pension Regulations were not brought into force and were only in a draft form and effectively there is an admission that the 2002 Pension Regulations were the only valid Pension Regulations brought into force by SIDBI.

(v) A Memorandum was put up by the HRD – Respondent No.3 to the Board of Directors of SIDBI on 28th March, 2014 for extending one more option for Pension to the Contributory Provident Fund ("CPF") optees. The Board of Director of SIDBI approved the Memorandum at its meeting held on 28th March, 2014 for granting one more Pension option to the current CPF optees but with a rider that the said proposal will be acted upon after it is confirmed by the Government of

India.

(vi) Writ Petition No.2698 of 2017 was filed by the Petitioners to enforce the Board of Directors' Resolution dated 28th March, 2014. This Writ Petition was disposed of by this Court vide Order dated 24th August, 2018 directing that the proposal of SIDBI be put up to the Ministry of Finance and shall be acted upon by the Ministry of Finance within 10 weeks from the date of the said Judgment, either way.

(vii) Thereafter, the Ministry of Finance remanded the matter back to SIDBI under Letter dated 9th January, 2019 without deciding the issue as contended by the Petitioners.

(viii) A second Writ Petition No.104 of 2020 was filed by the employees of SIDBI challenging the action of the Ministry of Finance.

(ix) A Letter dated 1st June, 2022 was received by the Petitioners during the pendency of Writ Petition No.104 of 2020, wherein the Petitioners were informed that the Board of Directors of SIDBI had in the meeting held on 17th May, 2022 agreed in principle to consider a final opportunity for exercising option for Pension by the serving / retired employees of SIDBI and eligible family members of the deceased employees presently covered by the CPF Scheme.

(x) The Writ Petition No.104 of 2020 was disposed of vide Order dated 24th June, 2022 passed by this Court. SIDBI was directed to formulate its Scheme for grant of option for Pension and particularly in view of SIDBI having expressed its intention of extending one final opportunity to serving / retired employees as well as to the eligible family members of the employees who have passed away for exercising option for pension. It was further clarified in the said order that in the event, the Petitioners and other employees find that the terms of the Pension Scheme now being offered by the SIDBI, are not to their liking or to their disadvantage, it would always be open to the Petitioners and other employees who were not satisfied with the terms of the Pension Scheme to pursue their remedy in accordance with law including by approaching this Court. However, if they are satisfied with the Pension Scheme, that would put an end to their woes.

(xi) The impugned Circular dated 29th June, 2022 was issued by Respondent No.3 – Chief General Manager HRD Vertical of SIDBI giving option for Pension. It is pertinent to note that the Petitioners challenge is restricted to only two clauses i.e. Clause 3(VIII) and 4(IX) of the said Circular. Under Clause 3(VIII) it was provided that retired employees who have exercised their option for Pension and have refunded SIDBI's contribution to Provident Fund and accrued interest thereon alongwith simple interest @ 3% per annum as per Paragraph 3(i) of the Circular, will be applicable for full Pension from 1st July, 2022 upto the date for commutation of Pension. Further under impugned Clause 3(IX), it was provided that after completion of all formalities, eligible retired employees will become eligible for Pension with effect from 1st July, 2022. No arrears of Pension will be paid for the period prior to 1st July, 2022.

(xii) The Petitioners through their Advocates filed their representation to Respondent Nos. 2 and 3 on 29th June, 2022 taking objection to the aforementioned impugned Clauses of the said Circular.

(xiii) The Petitioners thereafter filed the present Writ Petition impugning the Clauses 3(VIII) and 4(IX) of the said Circular.

4. The present Writ Petition came up before this Court. By an Order dated 25th March, 2025 this Court observed that the Judgment delivered by the Division Bench of the High Court of Kerala in M.T. Mani Vs. Reserve Bank of India & Ors. WP No.1037 of 2023 decided on 18th December, 2023 was likely to favour the case put forth by the Petitioners. By a subsequent Order dated 13th November, 2025 it was observed that the said Division Bench Judgment was set aside in appeal by the Supreme Court in RBI Vs. M.T. Mani & Anr. 2025 SCC Online SC 1217. The Supreme Court had restored the Judgment of the Single Judge Bench of the Kerala High Court dated 4th April, 2023. Accordingly, this Court by the said Order dated 13th November, 2025 had placed the matter for considering the submission of the Petitioners that the view taken by the Supreme Court in M.T. Mani (Supra) may not be applicable to the case of the present Petitioners' case.

5. Mr. Ramamurthy, learned Counsel appearing for the Petitioners has referred to the Judgment of the Supreme Court in M.T. Mani (Supra). He has submitted that it is apparent from Paragraph 31 of the said Judgment that the Respondent in that case was eligible on four occasions to avail the benefits of the Pension Scheme, but he opted out each time and continued with the CPF Scheme. It is on this observation that the Supreme Court considered the claim of the Respondent therein, particularly in view of the Respondent having taken a considered and calculated decision with regard to non-joining of the Pension Scheme and continuing with the CPF Scheme.

6. Mr. Ramamurthy has submitted that in the present case, the Petitioners who were employees of SIDBI, were not given an opportunity to opt for the Pension Scheme of 2002 till 24th June, 2022 when at the hearing of Writ Petition No.104 of 2020 SIDBI had extended an opportunity for the employees including the Petitioners to exercise the option of Pension as recorded in the said order.

7. Mr. Ramamurthy has referred to the Pension Regulations, 2002 and in particular, Clause 3 thereof under Chapter II – Application and Eligibility. It is provided therein that the Regulations will apply to Employees who join SIDBI's services on or after 1st November, 1993; Employees who were in service of SIDBI, except those Employees who, within the period prescribed by SIDBI, exercise an option in writing not to be governed by the Regulations, and Employees who were in service on 2nd April, 1990 and retired on or before 1st November 1993, provided they exercise option to be governed by these Regulations and refund, within such period as may be specified, the SIDBI's contribution to the Provident Fund including interest received by them from SIDBI together with simple interest @ 6% per annum from the date of

withdrawal till the date of re-payment. Pension shall be paid to them in accordance with Regulations 40. He has submitted that this makes it clear that the Employees of SIDBI are required to be given an option for being governed by the Pension Regulations, and upon which they may exercise that option. He has submitted that no such option for Pension had been given to the Employees.

8. Mr. Ramamurthy had accordingly submitted that the RBI Pension Regulations, 1990 which fell for consideration before the Supreme Court in M.T. Mani (Supra) are distinguishable from the SIDBI Pension Regulations, 2002. In that, the Employees of RBI had been given ample opportunities to opt for the Pension i.e. on four occasions. However, they opted out and continued with CPF Scheme. He has submitted that accordingly, the present case is not covered by the Judgment of the Supreme Court in M.T. Mani (Supra).

9. Mr. Anand Pai, learned Counsel appearing for the Respondents has submitted that it is apparent from the Order dated 24th June, 2022 passed by this Court in Writ Petition No.104 of 2020 that SIDBI was extending one last opportunity to its Employees to exercise option for Pension vide Communication dated 1st June, 2022. He has submitted that this Court after noting that SIDBI having expressed its intention of extending one final opportunity in exercising option for Pension towards serving / retired employees as well as eligible family members of the employees, who had passed away, it would be appropriate in the circumstances to grant liberty to SIDBI to formulate its Scheme, so that all employees (serving / retired) as well as eligible family members of the deceased employees may get a chance to get Pension in terms thereof. He has submitted that accordingly, this Court was mindful of the fact that SIDBI had given prior opportunities to its employees for opting for the Pension Regulations.

10. Mr. Pai has submitted that there is no distinction between the facts of the present case and the case which was before the Supreme Court in M.T. Mani (Supra). He has submitted that Clauses 3(VIII) and 4(IX) of the impugned Circular are the very clauses which had fallen for consideration before the Supreme Court in M.T. Mani (Supra). This was in the case of Master Circular of Pension dated 1st July, 2020. Under the said Master Circular of Pension, the condition of extension of option of Pension was from 1st July, 2020 to the employees in spite of their having retired much before like M.T. Mani who had retired on 30th November, 2014. The Supreme Court considered the detailed instructions issued by RBI on 18th September, 2020 which had referred to the cut off date of 1st July, 2020 for eligible retired employees to become eligible for Pension. It was held that it cannot be said that the cut off date, as fixed for grant of Pension, while refusing its retrospectivity thereof would be arbitrary or illegal or discriminatory in nature.

11. Mr. Pai has further relied upon the Judgment of the Supreme Court in Union of India and others Vs. M.K. Sarkar (2010) 2 SCC 59, wherein the Supreme Court in Paragraph 13 held that the Petitioner as Employee of Railways having enjoyed the benefits and income from the Provident Fund amount for more than

22 years could not switch over to the Pension Scheme which would result in the employee getting in addition to the Provident Fund amount already received, a large amount of arrears of Pension for 22 years (which will be much more than the Provident Fund amount that will have to be refunded in the event of switch over) and also get monthly Pension for the rest of his life. If the employee's belated exercise of option is accepted, the effect would be to permit the employee to secure the double benefit of Provident Fund Scheme as well as Pension Scheme, which is unjust and impermissible. The validity period of the option to switch over to Pension Scheme had expired on 31st December, 1978 and there was no recurring cause of action.

12. Mr. Pai has submitted that the Petitioners having enjoyed the benefits and income of CPF amount and even if refunded for pension will entail a larger benefit to the Petitioner having enjoyed it for a substantial period of time.

13. Mr. Pai has submitted that the present pension option has resulted in a financial burden of around Rs.96 Crores. An additional burden of around Rs.19.67 Crores would be entailed on the 28 Petitioners alone. There are over 150 such Pension optees and therefore a mere 18.67% of Pension optees are before this Court.

14. Mr. Pai has submitted that to set aside the impugned Clauses, would be unjust and impermissible. The Petitioners having opted for the Pension Scheme which is a package scheme, a part of that package which they claim is disadvantageous cannot be rejected, when benefits are taken. He has relied upon the Judgment of the Supreme Court in *Union of India Vs. L.V. Vishwanathan* (1998) 1 SCC 479 at Paragraphs 7 & 8 in this context.

15. Mr. Pai has accordingly submitted that the impugned Clauses are neither arbitrary nor illegal, nor discriminatory in nature and the present case is covered by the Judgment of the Supreme Court in *M.T. Mani* (Supra).

16. Having considered the submissions, we find much merit in the submissions of Mr. Pai for the Respondents. The very impugned clauses in the present Petition providing for cut off date fixed for grant of Pension had fallen for consideration before the Supreme Court in *M.T. Mani* (Supra), in respect of the RBI Pension Regulations, 1990. The Supreme Court in the said Judgment had set aside the Judgment of the Division Bench of the Kerala High Court in *M.T. Mani* (Supra) thereby restoring the Judgment of the Single Bench dismissing the Writ Petition. The Division Bench had held that there was no rational for RBI to put a condition on extension of benefit of Pension from cut off date i.e. 1st July, 2020 to the employees who retired much before like the Appellant / Petitioner / *M.T. Mani* who retired on 30th November, 2014. The Supreme Court has in the said Judgment in Paragraph 36 held that "Therefore, it cannot be said that the cut off date, as fixed for grant of Pension while refusing its retrospectivity, thereof would be arbitrary or illegal or discriminatory in nature." It was further held in Paragraph 37 that *M.T. Mani* cannot be permitted to blow hot and cold in the

same breath. Each Circular had its own specific terms and conditions, entitling the retirees or in-service employees to the benefits as were laid down therein and that too subject to certain conditions.

17. The Supreme Court had considered the financial burden and liability as being prominent aspects taken into consideration by the Government whilst granting its no objection to the proposed Scheme for switching from the Pension Scheme to the erstwhile CPF Scheme optee employees. The retrospective financial burden in that case would have resulted in unjustified liability of over 900 Crores for the RBI, which would have led to a financially unsustainable scenario. It has been held by the Supreme Court that the decision of the Government falls within the realm of policy decision, keeping in view the considerations taken note of before ultimately approving the Scheme of switch over as a last option to the persons who were eligible under it as laid down therein.

18. These findings of the Supreme Court are equally applicable in the present case as the present Pension option has resulted in a financial burden of around Rs.96 Crores. An additional burden of Rs.19.67 Crores would be entailed on the 28 Petitioners alone. Further, there are 150 such Pension optees. Therefore, a mere 18.67% of Pension optees are before the Court. Thus, there would be a financially unsustainable scenario in allowing eligible retired employees of SIDBI to opt for pension from their date of superannuation / date of retirement and payment of arrears arising therefrom. It is in order to avoid this that the Circular dated 29th June, 2022 was issued by SIDBI fixing a cut off date for eligible

retired employees to become eligible for Pension w.e.f. 1st July, 2022 and that no arrears of Pension will be paid with for a period prior to 1st July, 2022. The Supreme Court upon considering a similar clause fixing cut off date for eligible retired employees to become eligible for pension held that the refusing of grant of Pension retrospectively i.e. prior to cut off date from date of superannuation / retirement cannot be held to be arbitrary or illegal or discriminatory in nature.

19. The contention of the Petitioners to distinguish this case from the case which was before the Supreme Court on the ground that there was no prior opportunity given to the Petitioners herein for opting for Pension, whereas in the case before the Supreme Court, M.T. Mani was eligible on four occasions to avail the benefits of Pension Scheme but opted out each time and continued with the CPF Scheme is misconceived. This is apparent from the Order dated 24 th June, 2022 passed by this Court in Writ Petition No.104 of 2020, wherein this Court had recorded the submission of SIDBI that by the Communication dated 1st June 2022, the first Petitioner had been communicated the in-principle option of SIDBI to extend "one last opportunity" for the employees to exercise option for pension. Such option could be exercised by both the serving as well as retired employees of SIDBI as well as eligible family members of deceased employees. This Court has expressed its view that SIDBI having expressed its intention of extending one final opportunity for exercising option for Pension to serving / Retired employees as well as eligible family members of the employees who were deceased, it would

be appropriate in the circumstances to grant liberty to SIDBI to formulate the Scheme so that all employees (serving / retired) as well as eligible family members of the deceased employees may get a chance to opt for Pension in terms thereof. This Court had further clarified that the Petitioners and other employees who find that the terms of the Pension Scheme now offered by SIDBI are not to their liking or to their disadvantage, it would be always open to them to pursue their remedy in accordance with law, including by approaching this Court. However, if they were satisfied with the Pension Scheme that would put to an end to their goals.

20. The serving / retired employees of SIDBI as well as the eligible family members of the employees who have passed away have thus been given ample opportunities to opt for Pension. The Petitioners have exercised their option to opt for the Pension Scheme by switching over from CPF. Their challenge is not with regard to the entire impugned Circular but to the clauses which have fixed a cut off date. In our considered view, the Judgment of the Supreme Court in M.T. Mani (Supra) covers this challenge in the present Writ Petition, and which challenge has accordingly been rejected.

21. Further, the Petitioners would not suffer any prejudice in the rejection of this Petition, considering that they have for several years enjoyed the benefits and income under the CPF Scheme.

22. In that view of the matter, there is no merit in the present Petition which is dismissed with no orders as to costs.