(2006) 01 MAD CK 0102

In the Madras High Court

Case No : Writ Petition No. 9445 of 2001

V. Jeyaraman APPELLANT

Vs

Indian Bank RESPONDENT

Date of Decision : 10-01-2006

Acts Referred:

Citation : (2006) 2 LLJ 659 : (2006) 1 MLJ 367 : (2006) WritLR 139

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : K.V. Ananthakrishnan, for the Appellant; Vijayan, for King and Patridge, for the Respondent

Judgement

P. Jyothimani, J.—This writ petition is filed challenging the order of the respondent dated 29.03.2001, under which the respondent has

intimated the petitioner that he is not eligible for pensionary benefits. It is the petitioner''s case that he joined the respondent bank on 26.06.1978 as

a Clerk and retired from the services of the bank on 31.12.2000 under ""Voluntary Retirement Scheme"". While he was working in the

Kodambakkam Branch of the Indian Bank, there was a Pension Scheme called ""I.B. Pension Scheme Regulation"", under which a proposal for

voluntary retirement was directed to be opted by the intended employees of the bank on or before 26.01.1996. It is his further case that on

18.01.1996, he exercised his option to become a member of the said Pension Scheme and his option letter was despatched to the Pension

Department along with the option letter of one Pandian, who was the Chief Manager in the respondent bank at that time. Subsequently, he

voluntarily retired from the services of the bank with effect from 01.01.2001. It is also his case that though the petitioner requested the respondent bank to include his name in the Pension Scheme, it was refused by the respondent. The respondent''s case is that, the petitioner did not obtain the

signature of the Branch Manager/Head of the Department; he did not send the proposal before the cut off date viz., 26.01.1996 and that such

proposal was not received by it. Therefore, it cannot be said that the proposal was sent by the petitioner in accordance with the Pension Scheme.

It is admitted by the respondent that the proposal, in respect of Pandian, was sent on 18.01.1996 and he being the Chief Manager and Head of

the Department, as per the Pension Scheme, he ought to have sent the proposal of the writ petitioner also.

2. I have heard the learned counsel for the petitioner as also the learned counsel for the respondent.

3. Mr. K.V. Ananthakrishnan learned counsel appearing for the petitioner would state that under the Pension Scheme, which is the beneficial

Scheme, the proposal should be sent before the cut off date namely, 26.01.1996, with the attestation of the Branch Manager/Head of the

Department. Learned counsel for the petitioner would also state that when the proposal in respect of Pandian, who was the Chief Manager in the

respondent bank at that time, was attested by the Branch Manager by name P. Geetha, who was working under Pandian, the same Branch

Manager ought to have attested the proposal of the petitioner also and there is absolutely no justification for the respondent to contend that the

proposal of the petitioner was not sent in accordance with the Pension Scheme. It is further stated by the learned counsel for the petitioner that it

cannot be said that the respondent has not received the proposal at all. Apart from the fact that the petitioner had been making representations and

reminders to the respondent bank regarding the proposal sent by the petitioner, the Federation of Indian Bank Employees'' Unions, by it''s letter

dated 25.03.1998, had clearly brought to the notice of the respondent bank that on 18.01.1996 when the proposal of Pandian was sent, the

proposal in respect of Jeyaraman (petitioner) was also sent to the Pension Department. In both the cases, P. Geetha, the Branch Manager, had

attested the proposal and therefore there is no justification at all for denying the benefit of the Pension Scheme to the petitioner. In support of his

case, learned counsel for the petitioner also produced a copy of the ""Letters Inward Register"" maintained by the Bank itself, wherein it is stated that ""on 18.01.1996, the option letters of Mr. Jayaraman and Mr. Pandian were forwarded"".

3. On the other hand, Mr. Vijayan learned counsel appearing for the respondent bank would contend that the petitioner did not exercise his option

under the Pension Scheme. Learned counsel also relies upon the Attendance Register maintained by the bank to show that on 18.01.1 996 the

petitioner was on leave while Pandian, the Chief Manager, attended the bank and the Branch Manager attested his proposal. The copy of the

computerised statement filed by the respondent bank, which is available at page No. 10 of the typed set of papers, would show that all the

proposals were sent after the cut off date and it is not known as to how the petitioner''s proposal alone was not sent.

4. Learned counsel appearing for the petitioner relies upon a Division Bench judgment of the Madhya Pradesh High Court rendered in the case

reported in Allahabad Bank and Others Vs. Surendra Kumar Mishra, to contend that ""an employee of a bank cannot be made to lose pension

benefit for the banks inability to trace the option form"". He also relies upon another judgment of the Andhra Pradesh High Court rendered in the

case reported in Dasu Subba Lakshmi Vs. Indian Bank and Others, to contend that "" the banks'' plea of non-receipt of the option form should not

be sustained"". Learned counsel for the petitioner also relies upon another judgment of the Patna High Court rendered in the case reported in

Management of Engine Valves Ltd. Vs. Presiding Officer, First Additional Labour Court and Another, , wherein it was held that ""if the option

letters were not received in the Zonal Office or Head Office, the employee cannot be at fault"". In that case a direction was also issued to the bank

to consider the proposal submitted by the employee.

5. In the present case, learned counsel for the respondent bank would state that he is unable to produce any record regarding the proposal

submitted by the petitioner, since it relates to the period 1996 and not traceable. But on the other hand, learned counsel for the petitioner produced

before this court various documents, including the option form stated to have been given by the petitioner on 18.01.1996 attested by P. Geetha,

whose designation at that time is mentioned in the document as ""Senior Manager, Kodambakkam Branch"". The Federation of Indian Bank

Employees'' Unions had also sent a letter dated 25.03.1998 to the respondent bank stating that it has forwarded the option given by Jeyaraman,

along with the option given by Pandian, to the Pension Department. Therefore I am of the view that the judgments stated above and relied upon by

the learned counsel for the petitioner would squarely apply to the case on hand. In support of his case, learned counsel for the respondent relies

upon a letter dated 12.08.2002 of the said Pandian, in which it is stated that ""on perusal of records, I certify that my pension option application

dated 18.01.1996 was forwarded by my second line officer Mrs. Geetha. I had not forwarded the said application of Mr. V. Jayaraman. My

application alone was sent."" I do not think that this letter is of any help to the contention of the learned counsel for the respondent, especially when

the said Pandian is no more. The contention of the learned counsel for the respondent that P. Geetha is neither a Branch Manager nor Head of the

Department and therefore her attestation is of no use as per the Pension Scheme, is also not acceptable for the reason that the respondent bank

cannot take a double stand. While accepting the option exercised by Pandian, which was attested by P. Geetha, it is not known as to why the

option exercised by the petitioner and attested by the same person had not been accepted. The Pension Scheme, being beneficial to the employees

of the bank, the respondent must have been more magnanimous towards it''s employees in extending the benefits of the Scheme. The petitioner has

put in nearly 22 years of service in the respondent bank. Therefore I am of the considered view that the denial of pension benefits to the petitioner

by the respondent bank, is not sustainable.

6. In the result, the impugned order is set aside. The respondent is directed to consider the option dated 18.01.1996 given by the petitioner. In

addition to that, the petitioner is directed to submit a fresh proposal in accordance with the Scheme to the respondent within a period of four

weeks from the date of receipt of a copy of this order. On receipt of the same, the respondent bank shall consider both the proposals and pass

necessary orders extending the benefits of the said Scheme to the petitioner.

