

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 14027 OF 2023

Between:

K. Lakshman Rao, S/o. K. Narayana, Aged 64 years, Occ ; Advocate, R/o 9-3-11, St. Johns Road, Secunderabad - 25.

.....PETITIONER

AND

1. Canara Bank, Rep. by its Asst. General Manager, Human Resources Management Section Circle Office, 10-3-163 and 10-3-163/A, Plot No. 85, Beside Rail Nilayam, Hyderabad.
2. Canara Bank, Rep. by its General Manager (Pensions Fund), Human Resources Wings, Head Office , 112, J C Road, Bangalore, Karnataka State.
3. Canara Bank, Rep. by its General Manager, Circle Office, 10-3-163 and 10-3-163/A, Plot No.85, Beside Rail Nilayam, Secunderabad.
4. Canara Bank, Rep by its Chief Manager, Rail Nilayam Branch, Secunderabad.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in misconstruing the effective date for grant of pension to the petitioner as 09/02/2023 instead of 24/12/2010 on which date the petitioner Opted for pension as arbitrary, illegal, discriminatory and violative of Article 21 of the Constitution of India and consequently direct the respondents to grant Pension to the petitioner at par with the similarly situated persons.

I.A.NO:1 OF 2023

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to consider to grant pension to the petitioner w.e.f. 24/12/2010 on which date the petitioner submitted his Option, pending disposal of the writ petition.

Counsel for the Petitioner : SRI C.M.R.VELU

Counsel for the Respondents : SRI A.KRISHNAM RAJU

The Court made the following ORDER

HON'BLE MRS. JUSTICE SUREPALLI NANDA

WRIT PETITION No.14027 OF 2023

ORDER:

Heard Sri C.M.R.Velu, learned counsel appearing on behalf of the petitioner and Sri A.Krishnam Raju, learned Standing Counsel appearing on behalf of the respondents- Canara Bank.

2. The petitioner approached the Court seeking prayer as under:

"...to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in misconstruing the effective date for grant of pension to the petitioner as 09/02/2023 instead of 24/12/2010 on which date the petitioner Opted for pension as arbitrary, illegal, discriminatory and violative of Article 21 of the Constitution of India and consequently direct the respondents to grant Pension to the petitioner at par with the similarly situated persons and pass..."

3. The case of the petitioner, in brief, as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present writ petition, is as under:

The petitioner joined Syndicate Bank as a Clerk/Typist on 01.08.1983 and voluntarily retired on 20.01.2001 under the VRS-2000 Scheme as a non-pension optee. Subsequently, the

Bank extended pensionary benefits to employees who had earlier opted out. The petitioner became aware of this development only on 23.12.2010 and submitted the Option Form for pension on 24.12.2010, after the stipulated deadline of 15.11.2010, seeking benefits similar to other eligible employees. When there was no response, the petitioner filed W.P. No. 24467 of 2011 in August 2011. By order dated 03.11.2022, the Court allowed the said petition and directed the Bank to consider the petitioner's enrolment in the pension scheme upon refund of the employer's contribution with interest, granting pension with prospective effect.

It is further the case of the petitioner that due to ambiguity regarding the effective date of the pension, the petitioner filed I.A. No. 2 of 2022 in W.P. No. 24467 of 2011. The Court, by order dated 14.12.2022, clarified that the pension was to be granted prospectively from the date of the petitioner's application. Thereafter, the petitioner submitted a representation on 09.02.2023. The respondents demanded a refund of Rs. 5,09,581/- towards the employer's contribution and stated that pension would be considered with prospective effect from the date of the application. However, by letter dated 29.05.2023, the Bank declared that the petitioner would be entitled to pension

only from 09.02.2023, effectively ignoring the petitioner's original option date of 24.12.2010. Aggrieved by this, the petitioner has filed the present Writ Petition seeking pension benefits to be granted with effect from 24.12.2010.

4. PERUSED THE RECORD:

A. The order impugned, dated 29.05.2023 issued by the respondent No.1 is extracted hereunder:-

We reiterate herewith the Hon'ble High court's orders that "Having regard to the facts and circumstances of the case, this writ petition is allowed. The petitioner shall make a request before the concerned Bank authorities with copies of all documents which he seeks to rely on within one month from the date of receipt of a copy of this order. On receipt of such request the respondent Bank is directed to take up any request made by the petitioner in this regard for enrolment in the pension scheme on refund of the employer's contribution with interest and to consider and pass orders on the same taking a sympathetic view in the matter within two months thereafter. The respondents are hereby directed to consider the case of the petitioner for granting pension with prospective effect from the date of the application made by the petitioner". No order as to costs."

In response to your letter dated 28.04.2023 we inform you as under.

1. As per court order the pension has to be paid with prospective effect i.e, from the date on which the application is made i.e.09.02.2023, in term of order dt.03-11-2022 and subsequently passed amended orders dated 14.12.2022. As permitted by the Hon'ble Court vide Para No. 11 of the Order.

2. The amount contributed in Staff Provident Fund (PF) is being invested and interest is calculated on the Half-yearly compound basis only. Therefore, the interest calculated accordingly. Hence, calculation of interest is proper. The copy of the interest calculation sheet is attached herewith.

Therefore, we request you to submit the duly filled pension application (copy enclosed) along with the deposit of the amount of Rs.5,09,581/- (Rupees Five Lakhs Nine Thousand and Eighty One Only) at HRM Section, Circle Office Hyderabad.

This is for your information and necessary action.

B. The relevant portion of the order dated 03.11.2022 passed in favour of the petitioner in W.P No.24467 of 2011, filed by the petitioner on an earlier occasion is extracted hereunder:-

10. In identical circumstances, the Kerala High Court in K.A.Padmanabhan Vs. Deputy General Manager had passed orders directing the authorities to consider the case of the petitioner therein for prospective enrollment in the fund on refund of the employer's contribution with interest and to consider and pass orders on the same, taking a sympathetic view in the matter. In the case on hand, the petitioner also stands on the same footing. Hence this Court is of the considered view that the case of the petitioner deserves to be considered.

11 Having regard to the facts and circumstances of the case, this writ petition is allowed. The petitioner shall make a request before the concerned Bank authorities with copies of all documents which he seeks to rely on, within one month from the date of receipt of a copy of this order. On receipt of such request, the respondent Bank is directed to take up any request made by the petitioner in this regard for enrollment in the pension scheme on refund of the employers contribution with interest and to consider and pass orders on the same taking a sympathetic view in the matter within two months thereafter. The respondents are hereby directed to consider the case of the petitioner for granting pension with prospective effect. No order as to costs.

C. The relevant portion of the order, dated 14.12.2022 passed in I.A.No.2 of 2022 W.P.No.24467 of 2011 filed by the petitioner seeking clarification regarding the ambiguity pertaining to the effective date for grant of pension, is extracted hereunder:-

11 Having regard to the facts and circumstances of the case, this writ petition is allowed. The petitioner shall make a request before the concerned Bank authorities with copies of all documents which he seeks to rely on, within one month from the date of receipt of a copy of this order. On receipt of such request, the respondent Bank is directed to take up any request made by the petitioner in this regard for enrolment in the pension scheme on refund of the employers contribution with interest and to consider and pass orders on the same taking a sympathetic view in the matter within two months thereafter. **The respondents are hereby directed to consider the case of the petitioner for granting pension with prospective effect from the date of the application made by the petitioner. No order as to costs.**

DISCUSSION AND CONCLUSION:-

5. The learned counsel appearing on behalf of the petitioner mainly puts-forth the following submissions in support of the petitioner case.

- i) The 1st respondent, vide letter, dated 29.05.2023 declared that the petitioner would be entitled for pension w.e.f. 09.02.2023**

ii) The said declaration of the 1st respondent is not in conformity with the amended order, dated 14.12.2022 passed in W.P.No.24467 of 2011

iii) The 1st respondent has misconstrued the effective date for grant of pension to the petitioner as 09.02.2023 i.e., the date on which the petitioner submitted the petitioner's representation pursuant to the earlier order, dated 03.11.2022 passed initially in W.P.No.24467 of 2011, instead of 24.12.2010 the date on which the petitioner opted for pension, the 1st respondent had ignored the subsequent clarification issued by this Court vide its order, dated 14.12.2022 passed in I.A.No.02 of 2022 in W.P.No.24467 of 2011 which clearly added the words "from the date of application made by the petitioner with prospective effect" on the page No.8 of the order.

iv) As per the orders of this Court, dated 14.12.2022 passed in I.A.No.02 of 2022 in W.P.No.24467 of 2011, the amended order, dated 14.12.2022 stood substituted in place of the earlier order which had already been dispatched on 03.11.2022, which was admittedly ignored

by the 1st respondent while issuing letter, dated 29.05.2023.

v) By misconstruing the term "prospectively", the respondents declared that the petitioner would be granted pension w.e.f. 09.02.2023 being the date on which the petitioner submitted petitioner's representation along with the amended order. The 1st respondent has thus misconstrued the effective date for grant of pension to the petitioner and is required to necessarily consider grant of pension w.e.f. 24.12.2010, i.e., the date on which the petitioner submitted petitioner's option Form to the respondent Bank.

Based on the aforesaid submissions, the learned counsel appearing on behalf of the petitioner contends that the petitioner is entitled for the relief as prayed for by the petitioner in the present writ petition.

6. Learned standing counsel appearing on behalf of the respondent Bank placing reliance on the averments made in the counter affidavit, contends that the petitioner is not entitled for the relief as prayed for by the petitioner in the present Writ Petition.

DISCUSISON AND CONCLUSION:-

7. It is specific case of the petitioner that the effective date for grant of pension to the petitioner is not 09.02.2023 being the date on which the petitioner submitted petitioner's representation as per the orders of this Court, dated 03.11.2022 passed in W.F.No.24467 of 2011 on an earlier occasion, but the original date on which the petitioner submitted his option Form i.e., on 24.12.2010.

8. This Court takes note of the fact that the petitioner has not challenged the letter, dated 29.05.2023 issued by the respondent No.1 wherein the respondent No.1 declared that the petitioner would be entitled for pension w.e.f. 09.02.2023 being the date on which the petitioner submitted petitioner's representation as per the order, dated 03.11.2022 passed in W.P.No.24467 of 2011, which in fact admittedly as borne on record is not in conformity with the amended order, dated 14.12.2022, passed in W.P.No.24467 of 2011, filed by the petitioner herein seeking clarification with regard to the ambiguity pertaining to the effective date for grant of pension.

9. This Court opines that the respondent No.1 issued the letter, dated 29.05.2023 to the petitioner herein by taking into consideration the order, dated 03.11.2022 passed on an earlier occasion in W.P.No.24467 of 2011. and failed to take into consideration the subsequent amended order, dated 14.12.2022 passed in I.A.No.02 of 2022 in W.P.No.24467 of 2011.

10. A bare perusal of record indicates that the clarification made vide orders of this Court, dated 14.12.2022 passed in I.A.No.02 of 2022 in W.P.No.24467 of 2011 (referred to and extracted above), is admittedly not considered by the 1st respondent while issuing the letter, dated 29.05.2023 to the petitioner herein. This Court opines that the subject issue pertaining to the request of the petitioner for grant of pension w.e.f. 24.12.2010 being the date on which the petitioner submitted petitioner's option Form requires reconsideration by the 1st respondent in accordance to law and in conformity with the principles of natural justice, by providing an opportunity of personal hearing to the petitioner, as per the order of this Court, dated

03.11.2022 passed in W.P.No.24467 of 2011, duly taking into consideration the subsequent amended order, dated 14.12.2022 passed in I.A.No.02 of 2022 in W.P.No.24467 of 2011

11. Taking into consideration:-

- a) The aforesaid facts and circumstances of the case.
- b) The submissions put-forth by the learned counsel appearing on behalf of the petitioner and learned standing counsel appearing on behalf of the respondent Bank.
- c) The averments made in the counter affidavit filed on behalf of the respondents
- d) The fact that the petitioner applied for grant of pension to the petitioner vide option Form, dated 24.12.2010.
- e) The order of this Court, dated 03.11.2022 passed initially in W.P.No.24467 of 2011 (referred to and extracted above).
- f) The order of this Court, dated 14.12.2022 passed in I.A.No. 02 of 2022 in W.P.No.24467 of 2011 filed by the

petitioner seeking clarification pertaining to the ambiguity in regard to the effective date for grant of pension.

g) The representation of the petitioner submitted to the respondent Bank as per the order, dated 03.11.2022 passed in W.P.No.24467 of 2011.

The Writ Petition is allowed, and the 1st respondent is directed to reconsider the decision made vide letter, dated 29.05.2023, declaring that the petitioner would be entitled for pension w.e.f. 09.02.2023 being the date on which the petitioner submitted petitioner's representation as per the order of this Court, dated 03.11.2022 passed in W.P.No.24467 of 2011, which, in fact, is not in conformity with the amended order, dated 14.12.2022 passed in W.P.No.24467 of 2011. The 1st respondent is further directed to reconsider the representation of the petitioner, seeking grant of pension to the petitioner w.e.f. 24.12.2010 being the date on which, the petitioner submitted petitioner's option Form for pension instead of 09.02.2023, duly taking into consideration the amended

order, dated 14.12.2022 passed in favour of the petitioner in I.A.No.02 of 2022 in W.P.No.24467 of 2022 (referred to and extracted above) in accordance to law and in conformity with principles of natural justice by providing an opportunity of personal hearing to the petitioner and pass appropriate orders, within a period of three (03) weeks from the date of receipt of the copy of the order and duly communicate the decision on the subject issue to the petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/-AHMED ABDULLA KHAN
ASSISTANT REGISTRAR

SECTION OFFICER

One fair copy to the HON'BLE MRS JUSTICE SUREPALI NANDA
(For His Lordship's Kind Perusal)

To

1. The Assistant General Manager, Canara Bank, Human Resources Management Section Circle Office, 10-3-163 and 10-3-163/A, Plot No. 85, Beside Rail Nilayam, Hyderabad.
2. The General Manager, Canara Bank, (Pensions Func) Human Resources Wings, Head Office, 112, J C Road, Bangalore, Karnataka State.
3. The General Manager, Canara Bank, Circle Office, 10-3-163 and 10-3-163/A, Plot No.85, Beside Rail Nilayam, Secunderabad.
4. The Chief Manager, Canara Bank, Rail Nilayam Branch, Secunderabad.
5. 11 L.R. Copies.
6. The Under Secretary, Union of India, Ministry of Law Justice and Company Affairs, New Delhi.
7. The Secretary, Telangana Advocates Association Library, High Court Buildings, Hyderabad.
8. One CC to SRI C.M.R.VELU, Advocate [OPUC]
9. One CC to SRI A.KRISHNAM RAJU, Advocate [OPUC]
10. Two CD Copies

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[Signature]

C.C. TODAY

HIGH COURT

DATED:06/11/2025



ORDER

WP.No.14027 of 2023

ALLOWING THE W.P
WITHOUT COSTS.

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