

HIGH COURT OF CALCUTTA

BENCH - Hon'ble Justice Ajay Kumar Gupta

Date of Decision: 02.07.2024

WPA 8726 of 2020

APPELLANT(S):

Namita Das & OthersPetitioners

VERSUS

RESPONDENT(S):

Bangiya Gramin Vikash BankRespondent

Legislation:

Bangiya Gramin Vikash Bank (Employees') Pension Regulation, 2018

Articles 14, 21, and 300A of the Constitution of India

Central Civil Services (Commutation of Pension) Rules, 1981

Regional Rural Banks Act, 1976

Indian Banks Association Memorandum of Settlement dated 29.10.1993

Subject: Writ petition challenging the denial of superannuation pension to retired employees of Bangiya Gramin Vikash Bank from the next date of their retirement. Petitioners claim they were unjustly allowed their pension from 01.04.2018 instead of the subsequent day of their retirement, contrary to Supreme Court directives and relevant pension regulations.

Headnotes:

Superannuation Pension – Effective Date of Pension – Retired employees of Bangiya Gramin Vikash Bank challenged the date from which they were granted superannuation pension – Petitioners argued for pension commencement from the next day of their retirement, citing anomalies in the

pension regulations and Supreme Court rulings – Court found regulations binding, noted petitioners had agreed to terms by opting into the pension scheme – Writ petition dismissed without costs [Paras 1-39].

Regulations – Pension Regulations Formation – Petitioners claimed anomalies in the Bangiya Gramin Vikash Bank (Employees’) Pension Regulation, 2018 – Court held regulations were properly formed in consultation with stakeholders and approved by NABARD and the Central Government – Emphasized petitioners’ acceptance of the terms by refunding corpus to the Pension Fund [Paras 6-37].

Legal Precedents – Parity with Sponsor Banks – Court referenced various rulings on pension parity between Regional Rural Banks and Nationalized Commercial Banks – Affirmed the regulatory process and compliance with Supreme Court directives on pension parity – Regulations found consistent with legal standards [Paras 33-37].

Constitutional Challenge – Articles 14, 21, 300A – Petitioners claimed regulations violated their rights under Articles 14, 21, and 300A of the Constitution – Court found no merit in claims, stating regulations were uniformly applied and petitioners were not deprived of due process or property without law [Paras 9-28, 36].

Decision:

Writ Petition dismissed – Court upheld the Bangiya Gramin Vikash Bank (Employees’) Pension Regulation, 2018 – No order as to costs – Connected applications disposed of [Para 39].

Referred Cases:

- SLP © No. 39288 of 2012 (Supreme Court Order dated 25.04.2018)
- All India Regional Rural Bank Employees Association and Others v. Union of India and Others, WP No. 20034 of 2003 (Karnataka High Court)
- D.B. CIVIL SPECIAL APPEAL (W) NO. 2021/2011 (Rajasthan High Court)

- O.P. No. 1871/1997 (Kerala High Court)
- Civil Appeal No. 2218 of 1999 (Supreme Court Order dated 7.3.2002)

Representing Advocates:

For the Petitioners: Mr. Mohinoor Rahaman, Adv., Ms. Maria Rahaman, Adv., Mr. Iqra Rahaman, Adv.

For the Union of India: Mr. Pradip Kumar Das, Adv.

For the Respondent Nos. 1 to 5: Ms. Aparajit Rao, Adv., Ms. Swastika Roy, Adv.

JUDGEMENT

Ajay Kumar Gupta, J:

1. The writ petitioners are retired employees of Bangiya Gramin Vikash Bank and they have been superannuated from service on attaining the age of 60 years and allowed to get their superannuation pension on and from 01.04.2018 instead of on and from the next date of their retirements on superannuation as such they have filed this writ petition jointly as the reliefs, sought for, are similar in nature and common question of law is involved.
2. It is the case of the writ petitioners that they have been paid 2/3rd part of their Basic Pension plus DA applicable to it on and from 1st April, 2018 instead of their full Basic Pension as mentioned in the PPOs (without date), issued by the authority concerned i.e. Bangiya Gramin Vikash Bank (Employees') Pension Fund Trust (i.e. BGVBEFP-Trust) in favour of the writ petitioners. It is settled principles of law declared by the Hon'ble Supreme Court about the parity in the pay, allowance and other benefits of the employees of Regional Rural Banks (in short RRBs) at par with the employees of sponsor banks. It would also include pensionary benefits as well. It is the contention of the writ petitioners that the employees of RRB would have deprived from greater benefits.
3. The writ petitioner no. 1 and others wrote a letter to the authority concerned BGVBEFP Trust demanding the payment of 1/3rd part of their basic pension

which was not paid to the writ petitioners for the period from 01.04.2018 to 23.09.2019 but the prayer of the petitioners was rejected by the authority concerned on the pretext of reduction in the amount of pension on account of commutation of pension paid on 24.09.2019 by crediting to the respective BGVB SB accounts of the writ petitioners.

4. It is further case of the writ petitioners that in spite of direction passed by the Hon'ble Supreme Court in SLP (C) No. 39288 of 2012 on 25.04.2018 as well as the written instruction of the Government of India, Ministry of Finance, Department of Financial Services, RRB, dated 07.08.2018, writ petitioners have been deprived from their legitimate superannuation pension. The writ petitioners had written a letter on 21.07.2020 and some other dates to the Chairman, BGVB seeking clarification on some anomalous inserted in Bangiya Gramin Vikash Bank (Employees') Pension Regulation, 2018 (in short BGVBEPR, 2018) and in reply the GM, BGVB sent unsatisfactory replies to the petitioners on different dates without giving proper clarification to the points raised in their letter though the commuted value of pension of the petitioners credited to their respective BGVB SB accounts on 24.09.2019, the Bank authority paid 2/3rd parts of basic pension to the petitioners on and from 01.04.2018 to 23.09.2019. According to Rule 6(1)(ii)(b) of CCS (Commutation of Pension) Rules, 1981 the reduction in the amount of pension on account of the Commutation of Pension would be started on and from the date of which the commuted value of pension will be credited to the account of pensioner and this provision is applicable in the case of the petitioners according to Regulation 54 of BGVB (Employees') Pension Regulation, 2018.
5. Regulation 26 of Bangiya Gramin Vikash Bank (Employees') Pension Regulation, 2018 postulates that the superannuation pension will be granted from the next date of retirement on superannuation of the pensioners, but it is astonished that the respondent authority has given the effective date of Superannuation Pension to the retired employees on and from 01.04.2018 which is not at par with the regulation of sponsored Banks and even without any logical ground. Moreover, the Regulation 41 of Punjab National Bank and Regulation 39(6) of BGVBEPR, 2018 are not same and there are anomalies. The petitioners herein retired from their respective posts before 2018 and as per pension regulations, they are entitled to get their superannuation pension

from the very next date of their retirement, but in the present case, the authority concerned has fixed a cut off date i.e. 01.04.2018 which is absolutely illegal and not as per the dictum of the Hon'ble Courts.

6. The respondent Bank (BGVB), at the time of formation of the Pension Regulations, failed to consider that there are some anomalies in the Model Regulations forwarded by NABARD, so it should have taken into account by the BGVB Authorities at the time of formation of Regulations that the Regulations have to be prepared according to the direction of the Hon'ble Supreme Court and at par with the Pension Regulations of sponsored banks following the principles of parity in pension with the Sponsor Bank. But the respondent Bank prepared the Regulations unchanged whatever forwarded by the NABARD (model Regulations), as a result of which the retired persons are suffering financially.
7. Petitioner no. 1 and other petitioners made representation to the respondent Bank on various dates such as 20.09.2020, 21.09.2020, 22.09.2020 etc. demanding immediate payment of superannuation pension on and from the very next date of their respective dates of retirement on superannuation in conformity with the Regulations on BGVBEP, 2018.
8. In response to the representation of the petitioner no. 1 dated 21.09.2020, the General Manager (BGVB) replied on 22.09.2020 that as per Regulation 2/1(k) of BGVB (Employees') Pension Regulations, 2018 the effective date is 01.04.2018 and, accordingly, the prayer of the petitioner no. 1 is negated.
9. The act of the respondents is not only illegal and arbitrary but also devoid of any mark of procedural reasonableness thereby violating the Articles 14, 21 and 300A of the Constitution of India.
10. The writ petitioners placed reliance of a judgment of Hon'ble Karnataka High Court passed in Writ Petition No. 20034 of 2003 (SRES) on 22nd Day of March, 2011 (All India Regional Rural Bank Employees Association and Others vs Union of India and Others). The Division Bench of Hon'ble

Rajasthan High Court at Jodhpur had declined to interfere with the judgment dated 15.09.2011 passed by Hon'ble Single Bench of Rajasthan High Court on the similar issue was decided in favour of the similarly placed employees. Which was challenged before the Hon'ble Division Bench of the said High Court and the same was dismissed vide judgment dated 23.08.2012 in D.B. CIVIL SPECIAL APPEAL (W) NO. 2021/2011. Thereafter, the respondent authority has challenged the said judgment dated

23.08.2012 before the Hon'ble Supreme Court in SLP (C) No. 39288/2012. After hearing the parties, the Hon'ble Supreme Court was pleased to dismiss the said SLP (C) No. 39288/2012 on 25.04.2018 and direction was given to the Union of India to implement the judgment in respect of all the regional rural banks expeditiously and at any rate within three months from the date of production of the judgment. The Hon'ble Supreme Court passed order as, inter alia, that :

“the judgement of the High Court of Karnataka has become final as against the appellant/union of India. The High Court of Judicature for Rajasthan at Jodhpur has only followed that judgment of the High Court of Karnataka, which has otherwise become final”

11. After direction by the Hon'ble Supreme Court, the Director, Regional Rural Banks, Government of India, Ministry of Finance, Department of Financial Services vide his letter under Reference F No. 8/20/2010 – RRB dated 07.08.2018 requested the Chief General Manager, IDD, NABARD, Head Office, Mumbai to comply with the order of the Hon'ble Supreme Court of India dated 25th April, 2018 regarding the pension parity to Regional Rural Bank Employees.
12. The Director, Regional Rural Banks, Government of India, Ministry of Finance, Department of Financial Services vide another letter dated 16.08.2018 informed all the Chairpersons of all RRBs and CMDs/MDs of all sponsor banks of RRBs to the effect that the NABARD has been requested to comply with the orders of the Hon'ble Supreme Court vide letter dated 07.08.2018.

13. Thereafter, Under Secretary, Regional Rural Banks, Government of India, Ministry of Finance, Department of Financial Services wrote a letter dated 23.10.2018 to the Chief General Manager, IDD, NABARD (National Bank for Agricultural and Rural Development), Mumbai with an intimation that since the Model Regional Rural Bank (Employees') Pension Regulations, 2018 and other regulations were forwarded by the NABARD pursuant to the aforesaid order dated 25th April, 2018 passed by the Hon'ble Supreme Court, the said Model Pension Regulation may be circulated to all the RRBs at early date and it is also advised the RRBs to place the Model Pension Regulations and Model Service (Amendment) Regulations before the Board of Directors for consideration and further necessary action for consultation with the time demanding the payment of 1/3rd of their basic pension which was not paid to the petitioners for the period from 1st April, 2018 to 23rd September, 2019.

14. The prayer of the petitioners was rejected by the authority concerned on the pretext of reduction in the cost of pension on account of commutation pension paid on 24.09.2019 by crediting all the respective BGVB SB accounts of the petitioners. The writ petitioners further filed supplementary affidavit upon leave from the co-ordinate Bench and incorporating the prayer in the main petition as follows:

“A writ or in the nature of Mandamus commanding the respondents, their subordinates and each one of the them to cancel, withdraw, rescind and/or set aside the impugned Bangiya Gramin Vikash Bank (Employees) Pension Regulation, 2018”.

Thereafter, this instant writ petition has been assigned before this Bench by the Hon'ble the Chief Justice, High Court, Calcutta for its disposal.

15. Respondent nos. 1 to 5 had appeared and filed their affidavits-in-opposition contending therein that save and except material on record, the respondents are specifically denied and disputed the allegations made by the writ petitioners and further contended and admitted that the petitioners are retired employees of the respondent no. 1, BGVB and the same is set out in the separate sheet (R-1).

16. It is further contended that consequent upon the Judgment dated 25.04.2018 by the Hon'ble Supreme Court of India in the Special Leave Petition (SLP) No. 39288/2012 regarding grant of Pension to RRB employees in the line of Nationalised Commercial Banks, Government of India, Ministry of Finance, Department of Financial Services vide order No. F. No. 8/20/2010-RRB dated 16.08.2018 communicated the decision to comply with the Order and instructed National Bank for Agriculture and Rural Development (NABARD) to implement the pension in RRBs employees in the line of Nationalised Commercial Banks.
17. DFS, Ministry of Finance, Government of India, vide its letter F. No. 8/20/2010-RRB dated 23rd October, 2018 communicated approval of Model Regional Rural Bank (Employees') Pension Regulations, 2018 and Model RRB (Officers and Employees) Service (Amendment) Regulations, 2018 duly vetted by Ministry of Law and Justice.
18. NABARD vide their letter No. NB.IDD/344/316(Pension)/201819 dated 23rd October, 2018 advised to place Model Regional Rural Bank (Employees') Pension Regulations, 2018 and Model RRB (Officers and Employees) Service (Amendment) Regulations, 2018 before the Board of Directors for their consideration and further necessary action in terms of Section 30(1) of the RRB Act, 1976.
19. Accordingly, Bank notified Bangiya Gramin Vikash Bank (Employees') Pension Regulations, 2018 in the Gazette of India, Extraordinary on 10.12.2018 and started the process of implementing the Regulation. Subsequently, on 13th December, 2018, vide reference No. NB.IDD.RRB/1118/316 (Gen-Pension)/2018-19, NABARD supplied a draft copy of Pension Trust Deed with advice to adopt the same, arrange registration of the trust Deed, constitute the Trustees for the Pension Trust as per deed and seek exemption from EPFO under Section 17 of EPF Act, 1952 for the Trust.

20. The pension Regulation provides for payment of pension in the lines of Nationalised Commercial Banks to employees who was in the service of the Bank during the period from the 1st day of September, 1987 and 31st March, 2010 and retired before 10th of December, 2018 subject to submission of option and refund of entire corpus of employer's contribution to Provident Fund Trust. As per Bangiya Gramin Vikash Bank (Employees') Pension Regulations, 2018, all eligible existing Employees (Officers and Employees including part time Sweepers), the retired Employees and the family members of deceased Employees were required to exercise their option in writing in the prescribed format enclosed herewith within 120 (One hundred twenty) days from the date of notification of Bangiya Gramin Vikash Bank (Employees') Pension Regulations, 2018 in the Gazette of India, i.e. 10th December, 2018 and those who opted for Pension under Bangiya Gramin Vikash Bank (Employees') Pension Regulations, 2018 till 8th April, 2019 were required to refund/cause to transfer the entire corpus comprising of Bank contribution to Bangiya Gramin Vikash Bank (Employees') Pension Fund Trust.

21. In view of such regulation, the petitioners submitted option in Annexure-II within 08.04.2019 where they submitted to have read and understood the "Bangiya Gramin Vikash Bank (Employees') Pension Regulations, 2018, refunded the entire corpus comprising of Bank contribution to Bangiya Gramin Vikash Bank (Employees') Pension Fund Trust and became entitled to draw pension w.e.f. 01.04.2018, the effective date in terms of Regulation 2(k).

22. In terms of Regulation 17 of Regional Rural Bank Act, 1976, Staff of Regional Rural Banks, the remuneration of officers and other employees appointed by a Regional Rural Bank shall be such as may be determined by the Central Government and Bangiya Gramin Vikash Bank or any individual Regional Rural Bank has no role in determination of Remuneration of Staff.

23. As per Regional Rural Bank Act, 1976, the Central Government may, after consultation with the National Bank and the Sponsor Banks, by notification in the Official Gazette, make rules for carrying out the provisions of Regional Rural Bank Act, 1976.

24. Regulation 6 of Regional Rural Bank Act, 1976, shares of Bangiya Gramin Vikash Bank is subscribed by the Central Government, State Government – (Government of West Bengal) and Sponsor Bank (Punjab National Bank) in the ratios 50%, 15% and 35% respectively and operated by Board of Directors.
25. It is further stated the Board of Directors shall consist of the Chairman appointed under sub-section (1) of Section 11 of Regional Rural Bank Act, 1976 and the following other members, namely, (a) two directors, who are not officers of the Central Government, State Government, Reserve Bank, National Bank, Sponsor Bank or any other bank, to be nominated by the Central Government; (b) one director, who is an officer of the Reserve Bank, to be nominated by that Bank; (c) one director, who is an officer of the National Bank, to be nominated by that Bank; (d) two directors, who are officers of the Sponsor Bank, to be nominated by that Bank; (e) to directors, who are officers of the concerned State Government, to be nominated by that Government.
26. Two similar cases being Contempt Petition (C) No. 1800/2018 in SLP(C) No. 39288/2012 (Diary No.: 33586/2018) dated 01.10.2018 and Contempt Petition (C) No. 1798/2018 in SLP(C) No. 39288/2012 (Diary No.: 33583/2018) dated 01.10.2018 filed by retired employees of Regional Rural Bank Welfare Society and Ravindra Nath Tripathy are pending adjudication before the Hon'ble Supreme Court of India. The payment of pension to the petitioners has to receive the assent of NABARD and the Central Government who are necessary parties to the said petition.
27. It is denied by the Respondent Nos. 1 to 5 that their legitimate superannuation pension has been denied. They have been given their pension with effect from 1st April, 2018 as per notified regulation.
28. Pension on superannuation is governed by the rules and regulations framed by NABARD and the Central Government, which is only implemented by the answering respondents. Neither NABARD nor Central Government are the

parties to the said petition. The answering respondents can only implement the regulation after the same is approved by NABARD and Central Government.

29. So, question of deprivation or violation of Articles 14 or 21 or 300A of the Constitution of India does not arise.

SUBMISSIONS ON BEHALF OF THE WRIT PETITIONERS:

30. Learned counsels appearing on behalf of the writ petitioners submitted that the respondents did not allow the pension of the writ petitioners on and from the next date of their retirements on superannuation rather allowed to get their superannuation pension on and from 01.04.2018 instead of on and from the next date of their retirements is illegal, arbitrary, unjust and contrary to the direction by the Hon'ble Supreme Court and, therefore, respondents have contravened Articles 14, 21 and 300A of the Constitution of India as such impugned BGVBEPR, 2018 is liable to be cancelled, withdrawn, rescind and/or set aside and allowed full pension to the writ petitioners on and from the next date of their retirement on superannuation.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NOS. 1 TO 5: 31. The respondent nos. 1 to 5 pray for dismissal of the case in limine with costs as the writ petitioners have no case at all. BGVBEPR, 2018 is binding upon the petitioners as the regulation, 2018 has made out by the Board of Directors of Bangiya Gramin Vikash Bank after consultation with United Bank of India, being the sponsor Bank and the Nationalised Bank and with the previous sanction of the Central Government made the Pension Regulations, 2018 and published vide Notification F. No. BGVB/Pension Regulations 2018-2019 dated 31.10.2018. Under such regulations, option was given to the retired employees who were accepted the option as indicated in regulation. Each of pensioners has equivocally signed adjudication to accept the pension from the date when notified by the bank.

SUBMISSIONS ON BEHALF OF THE UNION OF INDIA:

32. In this case, though Union of India was made party but no substantial submissions were made by the learned counsel with regard to the prayer of the writ petitioners. It is submitted that the writ petitioners are getting their pension as per their own option and as per said regulation, 2018. Furthermore, the notified regulation is binding upon the retired employees as such writ petition deserves no merit and liable to be dismissed.

DISCUSSIONS, ANALYSIS AND CONCLUSIONS OF THIS COURT: 33.

Heard the rival submissions of the parties and upon perusal of record, it appears initially All India Regional Rural Bank employees' Association had filed a writ petition before the Hon'ble Supreme Court seeking a direction against the Union of India and other authorities to fix the emoluments of the employee of the Regional Rural Banks (in short RRBs) in conformity with the principle of 'equal pay for equal work' and depending on the industry-cum-region formula which was a well established principles in wages determination. A direction was sought to bring about parity in pay, allowances and emoluments between the employees of RRBs inter se and with those of employees of Nationalised Commercial Banks.

The Supreme Court, finding merit in the case of the petitioners therein, gave an option to the respondents either to appoint a National Industrial Tribunal to go into the claims of the RRB employees, or to accept the consequence of the petitions being allowed directing the parity in service conditions. The Union of India opted for the appointment of a Tribunal and accordingly, the petitions were disposed of with the following directions: -

“We are happy to know that the Central Government had agreed to appoint a National Industrial Tribunal to decide the question relating to pay, salary, other allowances and other benefits payable to the employees of Regional Rural Banks constituted under the Regional Rural Banks Act, 1976. The learned counsel for petitioners also agreed that a reference may be made to the proposed Tribunal. In view of the above, it is not necessary to pronounce on the questions of law raised in these writ petitions before us. We leave all the contentions open. The Central Government shall refer the dispute to the Tribunal, preferably to a retired Chief Justice of a High Court, within four weeks from to-day. We hope that the Tribunal will pronounce its award as expeditiously as possible. These writ petitions are disposed of accordingly.”

Pursuant to which, the Union of India, by a resolution dated 26.11.1987, appointed the National Industrial Tribunal, under the chairmanship of Justice S. Obul Reddi, Chief Justice (Retired) of the High Court of Andhra Pradesh.

Apart from the Union of India, the Reserve Bank of India, NCBs, State Bank of India, State Bank of Hyderabad and the RRBs participated before the Tribunal. The Tribunal, after recording elaborate evidence and hearing extensive arguments, gave its award on 30.04.1990. It was opined that the Commercial Banks and RRBs carry on similar banking business and that the duties and functions of the officers and other employees of RRBs are similar as those officers and other employees in the corresponding posts of rural branches of sponsor banks and that there was not much appreciable difference in their duties and functions and therefore, it was opined that it would be unjust and unreasonable to deny the RRB employees, parity in scale of pay as applicable in sponsor banks in comparable posts. It was further concluded that the financial liability of RRBs was an irrelevant criterion in extending the parity in service conditions between the employees of RRBs and NCBs. On receiving the award of the Tribunal, the Union of India appointed an Equation Committee in terms of the directions contained in the award. Two issues were referred to the Committee namely, (1) equation of existing posts in RRBs with corresponding posts of comparable level in sponsor banks and (2) fitment in the new scales of pay, allowances and other benefits and corresponding posts. The Equation Committee submitted its report on 16.1.1991. The Union of India accepted the award as well as the Equation Committee's Report and issued directions to all RRBs to implement the award and the Equation Committee Report with effect from 1.9.1987. Pursuant to the said direction, the pay scales, allowances and other benefits were brought on par with the NCBs with effect from 1.9.1987. The wage revisions effected by virtue of Bi-partite settlements which governed the workmen of NCBs from time to time. But for a period from 1.11.1992 to 1.7.1993, it was sought to be denied to the RRB employees when there was a wage revision in respect of similarly situated employees of the sponsor banks by virtue of a Bipartite settlement. At this juncture, at the behest of the Central Government, the Reserve Bank of India appointed a committee on salary and allowances of employees of RRBs. The committee recommended that the employees of RRBs are not entitled to parity with the corresponding employees of the sponsor banks.

Some of the petitioners challenged the same before Hon'ble High Court in a writ petition in WP 17905/1997. The Hon'ble High Court, by its order dated 11.11.1998 allowed the writ petitions and quashed the appointment of the committee and its report which had addressed the salary and allowances of employees of RRBs. A direction was issued to the Central Government to extend pay and allowances with effect from 1.11.1992 to all the employees of RRBs in accordance with the pay, allowances and benefits implemented in respect of employees of NCBs as per the Bipartite settlements.

In the meanwhile, the employees of South Malabar Gramin Bank had approached the High Court of Kerala by way of a petition in O.P. No. 1871/1997 seeking similar reliefs as in the aforesaid writ petition. The same was allowed by a learned Single Judge of the Kerala High Court and an appeal filed by the management was dismissed by a Division Bench by an order dated 25.11.1998. The same was carried by way of a Special Leave Petition before the

Supreme Court. The petitioner was permitted to intervene in the Special leave Petition and the said petition was ultimately disposed of by an order dated 31.1.2001 confirming the findings of the Kerala High Court as well to the extent that the employees of the RRBs are entitled to parity with the corresponding employees of the sponsor banks and that they were entitled to identical wage revision as and when given to the employees of the sponsor banks. It was, however, held that such revision would not be automatic and that within a reasonable time of revision being granted in the sponsor banks, the Central Government would necessarily have to issue orders under Section 17 of the Act keeping in view the principle of parity and the findings of the Tribunal that the employees of RRBs are entitled to parity with the corresponding employees of the sponsor banks. The apex court took note of the fact that during the pendency of the litigation, workmen and officers of the NCBs had been granted further wage revisions with effect from 1.11.1997 pursuant to the Seventh Bipartite settlement. Therefore, it followed that the said wage revisions were to be granted to the employees of the RRBs.

The respondent thereafter, in order to implement the directions of the Supreme Court, passed an order dated 11.4.2001. It is the contention of the petitioners that unfortunately the said order imposed several restrictions which virtually denied parity and was contrary to the directions of the apex court. As for instance, the payment of arrears was linked to profitability which was contrary to the opinion of the National Industrial Tribunal and further, the House Rent Allowance and City Compensatory Allowance were made

prospective from 11.4.2001 when the same was to be made effective from the dates on which the revisions were granted to the employees of the NCBs pursuant to the Bipartite Settlements. Insofar as other allowances are concerned, the individual sponsor banks were directed to negotiate the same with respective RRBs and after such negotiation, the revised allowances would be payable with effect from 1.4.2000.

Being aggrieved by the said order and a further order dated 25.04.2001, the first petitioner and several others filed applications seeking clarification before the Supreme Court by filing review petitions. All of which were disposed by a judgment dated 7.3.2002 and it was clarified thus by the apex court: -

“...The financial capacity of the Government cannot be pleaded as a ground for non-implementation of the directions of the court in as much as even in the matter of determination of pay scales of the employees of the Regional Rural Banks and maintenance of parity with their counterparts, serving under the sponsorer commercial banks. Justice Obul Reddi had not accepted the said plea and that award reached its finality. Since the financial capacity of the employer cannot be held to be germane consideration for determination of the wage structure of the employees and the parliament enacted the Act for bringing into existence these regional Rural banks with the idea of helping the rural mass of the country, the employees of such rural banks cannot suffer on account of the financial incapacity of the employer. We have no hesitation in coming to the conclusion that the issuance of the notification dated 11.04.2001 by the Government of India cannot be held to be in compliance with the judgment and directions of the Court in Civil Appeal No. 2218 of 1999. But, at the same time, we are of the opinion that the appropriate authority need not be punished under the provisions of the Contempt of Court Act, even if the notification is in direct contravention of the judgment of this Court, as we do not find a case of deliberate violation. While, therefore, we do not propose to take any action against the alleged contemnors, we direct that the employees of the Regional rural Banks should be paid their current salaries on the basis of determination made under the notification dated 11.04.2001, the new basic pay having been arrived at, as on 11.04.2001 should be immediately implemented and the employees should be paid accordingly.

Paragraphs (ii) and (iii) of the notification are quashed and the Central Government is directed to issue a fresh notification for proper implementation of the judgment of this Court.”

Thereafter, the Central Government passed a fresh order dated 17.4.2002 where again the House Rent Allowance was payable prospectively from 11.4.2001 and similarly other allowances were to be paid prospectively and there was again a direction that the sponsor banks should revise other allowances after negotiation with the RRB employees. While incidentally it is pointed out by the petitioners that the workmen and officers of the sponsor banks had the benefit of House Rent Allowance as enhanced with effect from 1.11.1992 and again from 1.11.1997, pursuant to the Sixth and Seventh Bipartite Settlements respectively.

Pursuant to a settlement dated 29.10.1993, pension was introduced as a retirement benefit in lieu of Contributory Provident Fund for employees of sponsor banks. This was made effective for those who had retired from services of the sponsor banks on or after 1.1.1986 with the actual payment of pension being made from cut off date i.e. 1st November, 1993 and the same were given effect to by the Pension Regulations notified by the sponsor banks. However, the Central Government has not issued directions under Section 17(1) of the Act, extending pension to employees of RRBs. Employee of RRBs is also entitled pensionary benefits as well. The Hon'ble Court of Karnataka and Rajasthan observed that it would be necessary for the court to direct the Central Government to pass appropriate orders pertaining to the retirement benefits. Accordingly, the writ petition was allowed in part and respondents are directed to take steps to ensure that the modalities are worked out for a pension scheme in the line with the pension scheme formulated for the employees of the sponsor banks in terms of the memorandum of settlement dated 29.10.1993 at Annexure - E to the writ petition with such changes as would be appropriate and keeping in line with the present circumstances, including such other relevant criteria that could be reasonably agreed upon in consultation with the employees. Since the petition had been pending on board since the year 2003, the respondents are directed to expedite the process and implement the same within a period of six months from the date of receipt of a copy of this order.

34. It is the case of the writ petitioners that in spite of confirmation of the said judgment by the Hon'ble Supreme Court, the respondent authorities have not given retirement benefits on and from the next date of their retirements on superannuation rather allowed to get their superannuation pension on and from 01.04.2018 instead of on and from the next date of their retirements. Writ petitioners were retired from their service prior to 2018.

35. Actually, the respondent no. 1 had no any pension policy under the line with that of a sponsor bank. The decisions of the Hon'ble High Court and Supreme Court of India were communicated by the Union of India to the National Bank for Agriculture and Rural Development (in short NABARD) with a direction to frame necessary regulation for grant of pension to Regional Rural Bank employees. The payment of pension requires a huge corpus. In order to create such corpus, the Regional Rural Bank had communicated with its retired employees to submit their option for pension and refund of entire corpus of employer's contribution to provident fund trust as this was part of corpus formed to pay the pension.

36. The judgments of Hon'ble High Court and Hon'ble Supreme Court clearly specify that the Regional Rural Banks would form a scheme in the line with that of the sponsor banks in terms of memorandum of settlement dated 29.10.1993 with such changes as appropriate keeping in the line with present circumstances including such other relevant criteria that could be reasonably agreed upon in consultations with the employees. Keeping in the line in such observation of the Hon'ble Courts, the Bank, after consultation with their employees, formulated their pension scheme. NABARD duly forwarded the same to the Union of India (Ministry of Finance, Department of Financial Services) which was granted approval by the Union of India. Union of India forwarded the regulations governing grant of pension to NABARD after vetting and sanctioning the same. The said regulations were directed to be circulated by NABARD to Regional Rural Banks for notification in official Gazette in terms of Section 30(1) of the RRB Act, 1976.

37. The pension regulations of the respondent no. 1 contain the application and eligibility in Chapter II, Clause 3(1), 3(3) and 3 (4) makes it applicable equally to all employees who had retired prior to 1st April, 2022.

Clause 4 Chapter III deals with which was found by the bank for payment of pension. Clause 6 deals with composition of fund. Such fund was generated for payment of pension. Each of the petitioners has equivocally signed adjudication to accept the pension from the date when notified by the bank. Petitioners have waived their rights to challenge the said regulations. Now, writ petitioners came before this court challenging the notified regulation with a prayer “A writ or in the nature of Mandamus commanding the respondents their subordinates and each one of the them to cancel, withdraw, rescind and/or set aside the impugned Bangiya Gramin Vikash Bank (Employees) Pension Regulation, 2018”.

38. The Hon’ble High Court had directed, inter alia, that respondents are directed to take steps to ensure that the modalities are worked out for a pension scheme in line with the pension scheme formulated for the employees of the sponsor banks in terms of the Memorandum of Settlement dated 29.10.1993 at Annexure - E to the writ petition with such changes as would be appropriate and keeping in line with the present circumstances, including such other relevant criteria that could be reasonably agreed upon in consultation with the employees. In view of such direction, the Bangiya Gramin Vikash Bank (Employees’) Pension Regulations, 2018 was worked out by the Board of Directors of Bangiya Gramin Vikash Bank after consultation with United Bank of India, being the sponsor Bank and the Nationalised Bank and with the previous sanction of the Central Government made the Pension Regulations, 2018 and published vide Notification F. No. BGVB/Pension Regulations 2018-2019 dated 31.10.2018. Under such regulations, option was offered to the retired employee indicating application and eligibility. Regulation 3 specifies as follows:

(1) These regulations shall apply to any employees who - was in the service of the Bank on or after the 1st day of September, 1987 but had retired on or before 31 March, 2010 who exercise an option in writing within one hundred and twenty days from the notified date, to become a member of the Fund and refund within sixty days after the expiry of the said period of one hundred and twenty days, the entire final amounts received by him (the corpus comprising of Bank’s contribution to provident fund under the Employees’ Pension Scheme, 1995 and interest accrued thereon till the date of receipt by him of the amount) but without requiring to pay interest on such final amounts from the date of receipt of such final amounts to the date of refund; or

(a) was in the service of the Bank on or after the 1st day of September, 1987 who continue to be in the service of the Bank on or after the notified date and exercise an option in writing within one hundred and twenty days from the notified date, to become member of the Fund and cause to transfer the entire contribution of the Bank along with the interest accrued thereon, to the credit of the Fund constituted under regulation 4; or

(b) was in the service of the Bank between the 1st day of September, 1987 and 31st March 2010 and continued in service on or after effective date but retired before the notified date, if he exercises an option in writing within one hundred and twenty days from the notified date, to become member of the Fund and refund within sixty days of the expiry of the said period of one hundred and twenty days the entire final amounts received by him (the corpus comprising of Bank's contribution to provident fund under the Employees' Pension Scheme, 1995 and interest accrued thereon till the date of receipt by him of the amount) but without requiring to pay interest on such final amounts from the date of receipt of such final amounts to the date of refund:

Provided that the family of the employee who -

(i) was in the service of the Bank on or after the 1st day of September, 1987 but died on or before 31st March, 2010; or

(ii) joined the service between 1st September, 1987 and 31 March,

2010 and died before the effective date; or

(iii) joined the service of the Bank between 1st September 1987 and 31 March 2010 and continued in service on or after the effective date but had died before one hundred twenty days after the notified date without the employee exercising an option in writing to become member of the Fund.

Shall be entitled to family pension under these regulations, if the family of such deceased employee exercises an option in writing with one hundred and twenty days from the date of the death of the employee or the expiry of one hundred and twenty days from the notified date, whichever is later, to become member of the Fund and refund within sixty days of the expiry of the said period of one hundred and twenty days the entire final amounts received by the family (the corpus comprising of Bank's contribution to provident fund under the Employees' Pension Scheme, 1995 and interest accrued thereon till the date of receipt of the amount by the family) but without requiring to pay interest on such final amounts from the date of receipt of such final amounts to the date of refund.

(2) An employee or family of the deceased employee not exercising the option under sub-regulation (1) or who, after exercising the option, not refunding the amount shall be deemed not interested in becoming a member of the Fund and shall continue to be governed under the Employees' Pension Scheme, 1995.

(3) Notwithstanding anything contained in this regulation, any employee who joined the service of the Bank on or after the 1st April, 2010 shall have an option either to be covered by the National Pension System or to continue to be governed under the Employees' Pension Scheme, 1995.

(4) Notwithstanding anything contained in this regulation, any employee who join the service of the Bank on or after the 1st April, 2018 shall be covered by the National Pension System.

4. Constitution of the Fund.- (1) The Bank shall constitute a Fund to be called the "Bangiya Gramin Vikash Bank (Employees') Pension Fund" under an irrevocable trust within one hundred twenty days from the notified date.

(2) The Fund shall have for its sole purpose the provision of the payment of pension or family pension in accordance with these regulations to the employee or his family.

(3) The Bank shall be a contributor to the Fund and shall ensure that sufficient sums are placed in it to enable the trustees to make due payments to beneficiaries under these regulations.

And under regulation 2(k) effective date has been fixed on and from 1st day of April, 2018 and not from the next date of their retirements on superannuation. In view of the aforesaid eligibility, the writ petitioners opted their option and deposited/refunded the entire corpus comprising of Bank contribution to Bangiya Gramin Vikash Bank (Employees') Pension Fund Trust as such Bangiya Gramin Vikash Bank (Employees') Pension Regulations, 2018 is binding upon the writ petitioners. No substance found in submission of the writ petitioners that they are entitled for their pensionary benefit on and from the next date of their retirements on superannuation. Even, Memorandum of Settlement dated the 29th October, 1993 between the Managements of 58 banks as represented by the Indian Banks Association and their workmen as represented by the All India Bank Employees Association also fixed earlier cut-off date for payment of pension to the retired employees. As such, the petitioners are not entitled to reliefs as prayed for in the writ petition.

39. Consequently, the writ petition being No. WPA 8726 of 2020 is, thus, dismissed without order as to costs and connected applications, if any, are also, thus, disposed of.

40. All parties shall act on a server copy of this judgment and order uploaded from the official website of High Court at Calcutta.

41. Photostat certified copy of this judgment, if applied for, is to be given to the parties on priority basis on compliance of all legal formalities.

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