

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 184 OF 2011**

**Federation of SBI Pensioners Association & Ors. Petitioner(s)
Versus
Union of India & Ors. Respondent(s)**

O R D E R

1. The Federation of SBI Pensioners Association ('the Federation' for short) through its General Secretary in this petition filed under Article 32 of the Constitution of India, seeks the following relief(s). They are :

“a) To issue a writ in the nature of Mandamus/Certiorari directing that the pension payable under Rule 22 of the SBI Employees Pension Fund Rules shall be the amount not less than 1/60th part for every year's pensionable service of the average monthly substantive salary drawn during the last 12 months' pensionable service as envisaged under Rule 23(1) and further to declare that Sub-Rule 2 of Rule 23 excepting the provision of one-half of the average monthly substantive salary drawn during the last 12 months' pensionable service as the maximum pension, as ultra vires and unconstitutional, and violative of Article 14, 16(1) and Article 21 of the Constitution of India and for further direction to grant consequential relief.

b) Issue a writ of Mandamus/ Certiorari or any appropriate writ to quash the first, second and third Proviso as under to Rule No. 23(2) of SBI Pension Fund Rules as ultra vires and unconstitutional and violative of Article 14, 16(1) and Article 21 of Constitution of India with immediate effect.”

2. After service of notice, all the respondents have entered appearance and have filed their pleadings.

3. When the matter was taken up for hearing, two preliminary objections in respect of maintainability of the writ petition is raised by Shri P.P. Malhotra, learned Additional Solicitor General appearing for Union of India. Firstly, that the Federation had approached this Court on an earlier occasion seeking redressal of its grievances in Writ Petition (Civil) No. 529 of 2000, but later on had withdrawn the said petition with liberty to approach the High Court. However, the Federation without taking recourse to the aforesaid remedy, has filed the instant writ petition after a lapse of more than twelve years without seeking permission from this Court and therefore, contends the writ petition deserves to be dismissed in limine. Secondly, the prayers sought in the writ petition is with regards to the service conditions of employees/officers retired from

service on attaining the age of superannuation and therefore, the writ petition filed under Article 32 of the Constitution of India is not maintainable before this Court.

4. In aid of the aforesaid submission, learned ASG has brought to our notice the observations made by this Court in the case of Confederation of All Nagaland State Services Employees' Association and Ors. vs. State of Nagaland, (2006) 1 SCC 496; Central Bank Retirees' Association and Ors. vs. Union of India and Ors., (2006) 1 SCC 497 and Nand Kr. Verma vs. High Court of Jharkhand and Anr., (2012) 3 SCC 592.

5. We deem it proper to answer the second objection raised first by the learned ASG. For that purpose we have carefully perused the prayers made by the Federation in the writ petition.

6. In the present case, the pensioners are the members of the Federation. They are in fact receiving pension but desire payment of higher pension in parity with the scheme for the majority of the employees as it stands after the revision of salary by the respondent-Bank with effect from 01.11.2007 and therefore assail some of the provisions of State Bank of India Pension Fund Rules, 1965 ("the Rules" for short) as being violative of Article 14, 16(1) and Article 21 of the Constitution of India. In our considered view, if there exists any lacuna in the Rules governing the service and pension conditions of the pensioners, as stated by them, the same pertains to the service conditions of the employees/officers of the bank. Therefore, we are of the considered opinion that since the writ petition pertains to a service conditions of employees / officers of the Bank, the same is not maintainable before this Court under Article 32 of the Constitution of India.

7. In order to fortify our conclusion we have taken note of the observations made by this Court in Central Bank Retirees' Association (supra). In the said decision the Court, inter alia, has stated as under:

"2. We are of the considered view that this is not a fit case to entertain the petition under Article 32 of the Constitution. The proper course for the petitioners would be to move the High Court. To avoid unnecessary delay, we send the writ petition filed in this Court to the Delhi High Court to be registered as petition under Article 226 of the Constitution. Since the dispute relates to claim of pension, it would be proper if the matter is taken up for early disposal. We request the High Court to dispose of the matter as early as possible, preferably within twelve months from today.

3. The writ petition is dismissed with the aforesaid observation."

8. We also take support from the observations made by this Court in the case of Confederation of All Nagaland State Services Employees' Association and Ors. (supra), wherein this Court after being satisfied that the petition pertains to interpretation of service conditions of the petitioners therein, inter alia, has stated as follows:

“1. Having heard learned counsel for the parties, we are of the opinion that the writ petitions filed by the Confederation of All Nagaland State Services Employees' Association as also by the Government of Nagaland should be agitated at the first instance before the High Court of Judicature at Gauhati in exercise of its power under Article 226 of the Constitution. The pleadings of the parties, which are complete, may be sent to the High Court which, upon receipt, shall be registered as writ petitions.

2. The number of writ petitions transferred as transfer petitions shall also stand restored.

3. Keeping in view the fact that the matter had been pending before this Court for a long time, we would request the High Court to consider the desirability of disposing of the matter as expeditiously as possible preferably within six weeks from the date of receipt of the records.....”

9. In view of the above, we are of the considered opinion that the learned ASG is justified in raising the preliminary objection with regard to the maintainability of the writ petition under Article 32 of the Constitution of India.

10. Having held the writ petition not maintainable, it is unnecessary to delve into the merits of the other objection raised by the learned ASG which also pertains to the maintainability of the writ petition yet on another ground. Accordingly, we decline to entertain this writ petition and the same is disposed of accordingly.

11. Since the members of pensioners association belong to different states and that the question of grant of pensionary benefits has been stalled since from last twelve years, instead of the members of the Federation approaching the respective High Courts and also to facilitate expeditious disposal of their grievances we had suggested and granted liberty to the Federation to choose a High Court where the writ petition filed by the Association could be transferred and request be made to the High Court to consider and decide the writ petition as early as possible.

12. Prof. Ravivarma Kumar, learned Senior counsel for the Federation, responding to the aforesaid would suggest that the writ petition may be transferred to the High Court of Delhi and a request be made to the learned Chief Justice to allot the writ petition to a Bench which could dispose of the writ petition at the earliest.

13. Since the pleadings are complete and the matter is pending before this Court for the last one and half years we deem it proper to transfer the writ petition papers to Delhi High Court and request the learned Chief Justice to assign the writ petition before a Bench of his choice for early disposal of the matter, at any rate within the outer limit of six months from the date of receipt of the records.

14. We direct the Registry to forthwith send the writ petition papers along with the counter affidavits, if any, filed by the parties to the High Court of Delhi.

15. Pursuant to the directions issued by us, Shri P.P. Malhotra, learned ASG has secured the records from the Ministry of Finance. The said records will also be produced by the learned ASG before the High Court of Delhi.

Ordered accordingly.

.....J.
(H.L.DATTU)
.....J.
(DIPAK MISRA)

NEW DELHI,
FEBRUARY 27, 2013.

(The Order passed by the Supreme Court is printed on next page)

ITEM NO. 11

COURT NO. 6

SECTION X

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CIVIL) NO. 184 OF 2011

FEDERATION OF SBI PENSIONERS ASSON.&ORS. Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)
(With appln(s) for early hearing and office report)
(FOR FINAL DISPOSAL)

Date: 27/02/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s) Prof. Raviverma Kumar, Sr. Adv.
Mr. Gopal Sankaranayanan, Adv.
Ms. Kheyali Sarkar, Adv.
Mr. Brajesh Verma, Adv.
Mr. E.C. Vidya Sagar, Adv.

For Respondent(s) Mr. Mohan Parasaran, S.G
rrs. 3-4 Mr. Vikas Singh, Sr. Adv.
Mr. Sanjay Kapur, Adv.
Mr. Deven Khanna, Adv.
Ms. Priyanka Das, Adv.
Ms. Ashmi Mohan, Adv.

rr.1 Mr. P.P. Malhotra, ASG
Mr. Sadashiv Reddy, Adv.
Mr. Gaurav Sharma, Adv.
Mr. D.L. Chidanand, Adv.
Ms. Sushma Suri, Adv.
Mr. B. Krishna Prasad, Adv.

UPON hearing counsel the Court made the following

ORDER

The writ petition is disposed of in terms of the signed order.

(Charanjeet Kaur)
Court Master

(Vinod Kulvi)
Court Master

(Signed Order is placed on the file)