

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 10211 of 2014**

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ARUN KUMAR SINGH....Petitioner(s)

Versus

STATE BANK OF INDIA - CPPC & 1....Respondent(s)

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Appearance:

MR J G VAGHELA, ADVOCATE for the Petitioner(s) No. 1

MR RAJA RAM S BAJPAI, ADVOCATE for the Petitioner(s) No. 1

MR PRANAV G DESAI, ADVOCATE for the Respondent(s) No. 1

NOTICE SERVED for the Respondent(s) No. 1 - 2

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CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA

Date : 01/03/2016

ORAL ORDER

By this writ-application under Article 226 of the Constitution of India, the petitioner, an Ex-serviceman and reemployed by the Corporation Bank, has prayed for the following reliefs :

“(A) Admit and allow this petition.

(B) Direct the respondent bank to pay dearness allowance on pension.

(C) Direct the respondent Bank to give arrears of Dearness Allowance on pension from 1/2/2013 till date.

(D) Give any other relief deemed just and proper in the facts and circumstances of the case.”

The issue involved in this writ-application is in a very narrow compass.

It appears that although the petitioner is eligible for the Dearness Allowance on Defence pension, he is obliged to submit a certificate from the reemployed organization as regards the fulfillment of the eligibility criteria for the same.

I take notice of the fact that the Directorate of Air Veterans, New Delhi, informed the State Bank of India (CPPC) in June 2013 as under :

“In view of the above, it is clarified that Dearness Allowance on Defence pension should not be stopped merely on the ground that an ex-serviceman has been re-employed. The Defence pensioner is eligible for DA on his defence pension if his re-employed organization has re-fixed his pay at their end without considering his Last Pay drawn/pension in the Defence Service. However, to be eligible for DA on defence pension the individual is required to submit a certificate from his re-employed organisation that he fulfills the eligibility criteria for the same. It is therefore requested that the individual may be asked to submit a certificate from his re-employed organisation mentioning that his Air Force pension/ Last Pay was not taken into consideration while re-fixing his pay at the re-employed organisation. On receipt of certificate, you may initiate action for restoration of DA on his Defence pension. Circulars/Policies on the subject are also available on PCDA(P) website www.pcdapension.nic.in for your reference.”

An affidavit-in-reply has been filed on behalf of the respondent no.1, *inter alia*, stating as under :

“4. Said direction of the Directorate of Air Veterans stated that those reemployed pensioners would submit certificate from reemployed organization for which it

should be clearly mentioned that the said individual fulfill eligible criteria as mentioned as above in (a) to (c). It provides that the defence pensioners is eligible for DA on his defence pension, if he is reemployed organization has refixed his pay at their end without considering his last pay drawn/pension in the Defence Service. However, it further provides that to be eligible for DA on defence pension the individual is required to submit a certificate from the reemployed organization that he fulfills the eligibility criteria for the same. In case of such reemployed individual, it is directed by the Directorate Air Veterans that individual is required to submit a certificate from reemployed organization mentioning that his Air Force pension while re-fixing his pay at the reemployed organization. On receipt of certificate, you may initiate action for restoration of DA on his defence pension. Copies of the said letter/instruction issued by the respondent bank by the Directorate of Air Veterans dated 20.6.2013 and letter dated 28.3.2013 is annexed hereto and marked as Annexure R-1 collectively.

5. It is submitted that in view of above referred instruction/ direction, the concerned official of the respondent bank had talked with the petitioner on phone on or about 9.7.2013 asking him to submit said certificate form his employer so that further process with regard to the payment of DA on defence pension can be released. On the said date, thereafter representative of petitioner one Pravinkumar Shrivastav visited the office of the respondent and on the said date, said letter of Directorate of Air Veterans was given to the representative of the petitioner.

6. I submit that inspite of above, the petitioner has not submitted required certificate from his reemployed organization mentioning that Air Force pension/Last Pay was not considered while refixing his pay at the reemployed organization. It is submitted that due to inaction on the part of the petitioner, further procedure and payment could not be effected with regard to the dearness allowance for which the petitioner is responsible as the respondent bank being pension disbursing authority on behalf of the Directorate of Ari

Veterans are required to follow the requirement and direction for making payment of pension as well as dearness allowance on behalf of the Directorate of Air Veterans/ Air Force Authority. The petitioner has not joined necessary and proper party particularly, the Air Force/Directorate of Veterans and/or his previous employer which is relevant party as the respondent bank is only disbursing authority on their behalf and taking action as per direction of the said Authority.

7. It is submitted that even the respondent bank has also informed about requirement of its letter dated 12.6.2014 addressed to the learned advocate who has issued notice on behalf of the petitioner. Copy of the said reply of the respondent bank is also produced by the petitioner at page 17 as Annexure D. It is submitted that it is upto the petitioner to now obtain requisite certificate from his reemployed organization and submit to the respondent as per the requirement so that other action can be taken. It is therefore, submitted that present petition is thoroughly misconceived, untenable and devoid of any substance and deserves to be dismissed in lemini costs."

The learned counsel appearing for the petitioner has drawn my attention to an application dated 9th December 2014 addressed to the Senior Manager, Corporation Bank, Zonal Office, PAD, First Floor, Navrangpura, Ahmedabad, requesting for issue of the certificate in accordance with the guidelines issued by the Directorate of Air Veterans and as demanded by the respondent no.1.

It appears that there is no response at the end of the Corporation Bank although *impleaded* as party respondent no.2. It appears that although served with the notice issued by this Court, yet has chosen not to remain present and make its stance clear.

In such circumstances referred to above, the respondent no.2 Corporation Bank is directed to immediately look into the request made in writing by the petitioner for issue of certificate for non-protection of all elements of last pay drawn – Ex-serviceman *i.e.* in terms of the policy of the Directorate of Air Veterans as is evident from *Annexure-R1* to this petition, page 29, within a period of fifteen days from the date of receipt of the writ of the order. Once such certificate is issued, the same shall be considered by the respondent no.1 for the purpose of Dearness Allowance *alongwith* the arrears.

With the above, this writ-application is disposed of. Direct service is permitted.

(J.B.PARDIWALA, J.)

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