



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 4279 OF 2026  
(ARISING OUT OF S.L.P. (CIVIL) NO.12462 OF 2022)**

**K.G. SESHADRI**

**... APPELLANT(S)**

**VERSUS**

**THE TRUSTEES OF STATE BANK OF INDIA  
AND ANOTHER**

**... RESPONDENT(S)**

**J U D G M E N T**

**PRASHANT KUMAR MISHRA, J.**

1. Leave granted.
2. This Appeal is directed against the impugned judgment and order dated 27.04.2022 passed by the High Court of Judicature at Madras in W.A No.1065 of 2022, whereby the Division Bench of the High Court dismissed the appeal filed by the appellant and upheld the order passed by the learned Single Judge of the High Court.

**FACTUAL MATRIX**

3. The appellant was appointed as a Clerk in the respondent-Bank and the same was confirmed after the probation period of six months i.e., from

17.02.1979 till 12.12.1998. The appellant ceased to be in the job and left for abroad in the year 1989. After returning in the year 2004, he gave a letter to re-join the service. However, the respondent-Bank turned down the said request and, *vide* letter dated 21.07.2008, the respondent-Bank declared that the appellant has been voluntarily retired.

**4.** Aggrieved by the aforesaid letter dated 21.07.2008, the appellant filed a writ petition being W.P. No.19002 of 2008 before the High Court of Judicature at Madras. On 21.04.2009, the High Court orally directed the appellant to withdraw the case and approach the Labour Court.

**5.** Pursuant to the direction of the High Court, the appellant approached the Central Government Industrial Tribunal-cum-Labour Court<sup>1</sup>, Chennai, by filing a claim petition being CP No.5 of 2010 under Section 33C(2) of the Industrial Disputes Act, 1947<sup>2</sup> and prayed the Labour Court to compute the appellant's pension benefits @ Rs.8,11,770/- along with interest. The Labour Court *vide* order dated 24.09.2010 dismissed the claim petition by observing that it had no jurisdiction and competence to decide the case, since the present case was not relating to any pre-existing right under pension rules, and, hence, it could not adjudicate the issue raised therein as per ID Act or under the SBI Pension Rules.

**6.** The appellant once again approached the High Court by way of a writ petition being W.P No.25597 of 2010. The learned Single Judge *vide* order dated 05.11.2019 concluded that the appellant could not establish any pre-existing right with reference to the eligibility conditions prescribed under the pension

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<sup>1</sup> For short, "Labour Court"

<sup>2</sup> For short, "the ID Act"

scheme and confirmed the findings of the Labour Court *inter alia* holding that since the eligibility and other terms and conditions for grant of pension are all disputed facts, the claim petition filed by the appellant could not have been entertained by the Labour Court.

7. Aggrieved by the aforesaid order dated 05.11.2019 of the learned Single Judge, the appellant filed W.A. No.1065 of 2022 before the Division Bench of the High Court. The Division Bench *vide* its impugned judgment and order dated 27.04.2022 dismissed the writ appeal and upheld the order of the learned Single Judge taking into consideration the limited jurisdiction of the Labour Court under Section 33C(2) of the ID Act and that the claim of pensionary benefits was disputed by the respondent(s) by a reasoned order and the challenge to it by the writ petition was not pressed by the appellant and was rather withdrawn.

### **SUBMISSIONS**

8. Learned senior counsel appearing for the appellant would submit that appellant has completed 20 years and 3 months and 25 days of service from date of appointment/date of confirmation and, hence, he was entitled to pension as per the Pension Fund Rules, more specifically under Rule 22(i)(c) of the State Bank of India Employees' Pension Fund Rules, 1955<sup>3</sup>.

9. Additionally, it was argued that the respondent-Bank denied the legitimate pension by deliberate misinterpretation of Pension Fund Rules by not applying Rule 22(i)(c) of the Pension Fund Rules, which states completion of 20 years' service, irrespective of age, the respondent-Bank is said to have

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<sup>3</sup> For short, "Pension Fund Rules"

approved and reprobated in their counter affidavit that the appellant has been declared under Voluntary Cessation, but deny legitimate pension, by erroneously applying the incorrect Rule 22(i)(a), instead of 22(i)(c) of the Pension Fund Rules.

**10.** It was submitted that the respondent-Bank, even though a premier bank of Government of India, failed to notice that a normal Voluntary Retirement Scheme<sup>4</sup> was introduced in the Bank on 20.09.1986, after obtaining approval from Government of India, Reserve Bank of India and Board of Directors of the Bank. The VRS was open to any employee at all point in time. So, the statement of the respondent-Bank that there was no VRS in existence when the appellant applied for the same is totally false and mischievous.

**11.** The appellant has relied on the decisions in ***Assistant General Manager, State Bank of India & Ors. vs. Radhey Shyam Pandey***<sup>5</sup> and ***Rugmini Ganesh w/o Ganesh Raman Iyer vs. State Bank of India Rep. By its Chairperson***<sup>6</sup> to bolster his submissions.

**12.** *Per contra*, learned ASG appearing for the respondent-Bank would argue that the appellant is not eligible for pension as per the applicable Pension Fund Rules since he has not completed 20 years of qualifying service and neither he has completed 50 years of age. Thus, making him non-entitled for pension under Rule 22(i)(a) of the Pension Fund Rules.

**13.** Additionally, the learned ASG argued that the claim petition filed by the appellant under Section 33C(2) of the ID Act was not maintainable since such a

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<sup>4</sup> For short, "VRS"

<sup>5</sup> 2020 (6) SCC 438

<sup>6</sup> 2018 SCC OnLine Bom 3884

petition can only be entertained by the Labour Court when there is a pre-existing right.

**14.** The respondent-Bank also denies the contention of the appellant regarding obtaining VRS, since there was no VRS in operation during that relevant time. Instead, it is argued that the appellant from 24.01.1998 to 11.12.1998 without informing and without availing leave started remaining unauthorizedly absent for a long period. During this period, the respondent-Bank, following the provisions of the Bipartite Settlement, issued notices dated 01.06.1998 and 12.11.1998 calling upon the appellant to report for work and explain his unauthorized absence. As the appellant failed to report for duty, he was declared to have voluntarily abandoned his services from 12.12.1998. During this time, it is argued on behalf of the respondent(s) that the appellant had been in employment abroad and was residing there. Thus, this was not a case of voluntary retirement, but of voluntary abandonment of services on part of the appellant.

**15.** To bolster the submissions, the respondent-Bank has relied on the decision in ***Municipal Corporation of Delhi vs. Ganesh Razak & Anr.***<sup>7</sup> and ***Arikaravula Sanyasi Raju vs. Branch Manager, State Bank of India, Visakhapatnam (A.P) and Ors.***<sup>8</sup>.

**16.** The rival submissions now fall for our consideration.

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<sup>7</sup> (1995) 1 SCC 235

<sup>8</sup> (1997) 1 SCC 256

## **ANALYSIS**

**17.** At the outset, we make it clear that though the Labour Court and the High Court have dismissed the case of the appellant on the technical ground of non-maintainability of the petition under Section 33C(2) of the ID Act, primarily since the proceedings under Section 33C(2) of the ID Act are in the nature of execution proceedings and, since in the present case, the issue of the grant of the pension to the appellant cannot be held to be a pre-existing right, as the same was disputed by the respondent-Bank, both, the Labour Court and High Court, decided to dismiss the case of the appellant at the threshold. However, we have decided to proceed with the case on its merits.

**18.** The primary question that arises for our adjudication is that whether the appellant is entitled for pensionary benefits keeping in view the Pension Fund Rules.

**19.** Employee's pension rights are crystallized under Rule 22 of the Pension Fund Rules. The said rule reads as under:

**"22. Minimum service for pension-** (i) A member shall be entitled to a pension under these rules on retiring from the Bank's service-

a) **After having completed twenty years' pensionable service provided that he has attained the age of fifty years** or if he is in the service of the Bank on or after the 1.11.1993, after having completed ten years pensionable service provided that he has attained the age of fifty eight years or if he is in the service of the Bank on or after 22.05.1998, after having completed ten years pensionable service provided that he has attained the age of sixty years;

(b) **After having completed twenty years' pensionable service**, irrespective of the age he shall have attained, if he shall satisfy the authority competent to sanction his **retirement by approved medical certificate** or otherwise that he is incapacitated for further active service;

(c) after having completed twenty years pensionable service, irrespective of the age he shall have attained at **his request in writing**.

(d) **after twenty five years' pensionable service.**"

(emphasis supplied)

**20.** The reckoning of pensionable service has to be determined in accordance with Rule 20 read with Rule 7 of the Pension Fund Rules which read as follows:

**"20.** Save as provided in rule 21, with effect from 1.11.93, **service rendered by an employee/member from the date of his admission to the fund** upto the date of retirement in terms of rule 22 infra from the Bank's service shall be reckoned as service for pension.

Rule 7 of the Rules

**7.** Save as provided in rule 8, **every permanent employee** (including a permanent part-time employee who is required by the Bank to work for more than six hours a week) **in the service of the Bank**, who is entitled to pension benefits under the terms and conditions of his service **shall become a member of the Fund from-**

**(a) the date from which he is confirmed in the service of the Bank, or**

**(b) the date from which he may be required to become a member of the Fund under the terms and conditions of his service."**

(emphasis supplied)

**21.** The appellant has primarily placed reliance upon Rule 22(i)(c) of the Pension Fund Rules to claim entitlement to pensionary benefits, whereas the respondent(s) has contended, by placing reliance on Rule 22(i)(a), that the appellant does not fulfil the conditions prescribed therein and is, therefore, not entitled to pension. In view of the rival submissions, it becomes necessary for this Court to examine the scope and applicability of Rule 22(i)(c) and Rule 22(i)(a) of the Pension Fund Rules.

**ELIGIBILITY CONDITIONS FOR PENSION UNDER RULE 22(i)(c) OF THE PENSION FUND RULES**

**22.** Primarily in order for the appellant to be eligible for the pension under Rule 22(i)(c) following two conditions are required to be satisfied: *The employee*

*should have completed twenty years of pensionable service, irrespective of the age, he shall have attained at his request in writing.*

**23.** It is the case of the appellant that he completed 20 years, 3 months and 25 days, as on 12.12.1998, i.e. from the date of appointment being 17.08.1978, to the date of deemed voluntary retirement being 12.12.1998. However, the record of the case clearly shows that the appointment of the appellant was confirmed on 17.02.1979 and he was declared to have voluntarily abandoned his services from 12.12.1998.

**24.** Additionally, a reading of Rule 20 along with Rule 7 of the Pension Fund Rules would make it clear that service for the purpose of pension is to be reckoned from the date of the employee's admission to the fund wherein the employee shall become the member of the fund from the date on which he was confirmed in the service of the Bank. Thus, if we calculate the total period of the service rendered by the appellant, after completion of probation, it would come down to less than 20 years i.e., 19 years, 09 months and 25 days. Thus, the first condition of the appellant having completed 20 years in service is not-fulfilled.

**VOLUNTARY RETIREMENT OR VOLUNTARY ABANDONMENT OF SERVICES?**

**25.** The second condition that needs to be fulfilled is that the appellant must have obtained voluntary retirement from services of the respondent-Bank. However, looking at the record of the case, we have noticed that the present case is not of voluntary retirement, rather of voluntary abandonment of the services, wherein from 24.01.1998 to 11.12.1998, the appellant, without informing and availing leave, started remaining absent for a long time after which the

respondent-Bank issued notices dated 01.06.1998 and 12.11.1998 calling upon the appellant to explain his absence.

**26.** After receiving a non-satisfactory reply, services of the appellant were declared to have been voluntarily abandoned. Hence, the reliance placed by the appellant on Rule 22(i)(c) of the Pension Fund Rules is completely misplaced.

**27.** The appellant has relied on ***Radhey Shyam Pandey*** (supra) to contend that since pension is a pre-existing right under the Pension Fund Rules, voluntary cessation of service should be treated at par with voluntary retirement. This submission, however, in our view, seems to be completely misplaced as in ***Radhey Shyam Pandey*** (supra), this Court was concerned with employees who had undisputedly retired under a recognized Voluntary Retirement Scheme, and the controversy was limited to the interpretation of pension rules and the extent of qualifying service. The entitlement to pension itself was not in dispute, and, therefore, the Court proceeded to interpret the scheme in favour of granting benefits.

**28.** In contrast, in the present case, the very foundation of the appellant's claim, namely, his entitlement to pension, is seriously disputed by the respondent-Bank, particularly with respect to the fact that his case is not of voluntary retirement, rather of voluntary abandonment of service on part of the appellant.

**ELIGIBILITY CONDITIONS FOR PENSION UNDER RULE 22(i)(a) OF THE PENSION FUND RULES**

**29.** Since the respondent-Bank has submitted that the appropriate rule under which the appellant's case falls is Rule 22(i)(a) and not Rule 22(i)(c), we shall now

examine whether the appellant is entitled to pension under Rule 22(i)(a) of the Pension Fund Rules.

**30.** The two conditions that are required to be fulfilled are that *the appellant must have completed twenty years of pensionable service provided that he attained the age of fifty years during the relevant time*. Since we have already held that the total service years of the appellant is less than 20 years, the first condition remains unfulfilled. That apart, it is an admitted position on record that the appellant had not attained the age of 50 years as on the date of cessation of service. Therefore, the mandatory condition relating to attainment of the prescribed age under Rule 22(i)(a) also remains unfulfilled. In view of the non-satisfaction of both the essential conditions, namely, completion of 20 years of qualifying service and attainment of 50 years of age, the appellant is clearly not entitled to claim pension under Rule 22(i)(a) of the Pension Fund Rules.

**31.** The appellant has relied on the decision in ***Rugmini Ganesh*** (supra) to submit that the probation period during the appellant's service should also be counted for calculating his pensionable service. It is important to note that ***Rugmini Ganesh*** (supra) dealt with the limited question of computation of qualifying service, including whether pre-confirmation service could be counted, in a situation where the employee's entitlement to pension was already recognized. It did not address a case where entitlement itself was in issue. Also, in ***Rugmini Ganesh*** (supra), the employee's service record was not fundamentally disputed and the issue was confined only to the interpretation of the service rules. In the present case, even if we for argument's sake agree to the submission of the appellant and include the probation period to calculate

the pensionable service, he would still not be eligible as he had not attained the requisite 50 years of age at the relevant time. Hence, making the appellant ineligible under Rule 22(i)(a) of the Pension Fund Rules.

**CONCLUSION**

**32.** In view of the above discussion, we are of the opinion that the appellant cannot be said to be eligible for pension under the Pension Fund Rules considering that he has not completed 20 years of service nor had attained the age of 50 years, hence, making him ineligible under Rule 22(i)(a). Also, the appellant's case cannot be said to fall under Rule 22(i)(c) since the appellant was never granted VRS, instead his services were declared to have been voluntary abandoned. Keeping in view that the case of the appellant does not fall in either of the above-stated Rules, this Appeal deserves to be dismissed. The same is, accordingly, dismissed.

.....**J.**  
**(PRASHANT KUMAR MISHRA)**

.....**J.**  
**(N.V. ANJARIA)**

**NEW DELHI;**  
**APRIL 08, 2026.**