[2025] 5 S.C.R. 1128 : 2025 INSC 769

The Reserve Bank of India
v.
M.T. Mani and Another

(Civil Appeal No. 13962 of 2024)

23 May 2025

[Abhay S. Oka and Augustine George Masih,* JJ.]

Issue for Consideration

RBI issued Administration Circular No.1 on 14.09.2020 opening a last option for the serving and retiring employees to switch over to pension scheme from CPF scheme. Whether the fixing of the cut off date i.e. 01.07.2020 for grant of pensionary benefits and that too prospectively is in consonance with law or is discriminatory and arbitrary.

Headnotes†

Payment of Gratuity Act, 1972 – RBI Pension Regulations, 1990 – Contributory Provident Fund – After introduction of Pension Regulations, 1990, RBI gave option to the serving and retiring employees to switch over to pension scheme from CPF scheme in the year 1990, 1992, 1995 and 2000 – Respondent No.1 joined service of the RBI on 14.09.1981 and became a member of the CPF Scheme in operation then for the staff – He got the aforesaid four options in his tenure, however, he chose not to join the Pension Scheme rather continued with the CPF – Respondent retired on 30.11.2014 – After the Government of India rejected the proposal of RBI for another option for CPF optees to switch to the Pension Scheme, respondent no.1 filed writ petition – During the pendency of writ petition, RBI issued Administration Circular No.1 on 14.09.2020 opening a last option for the serving and retiring employees – Thereafter, respondent opted for for the Pension Scheme and in the pending writ petition moved for an amendment to challenge the denial of entitlement to the grant of arrears of pension from the date of retirement – Amendment was allowed – The writ petition was dismissed by the Single Judge of High Court, holding therein that the respondent had well-informed details

* Author

regarding the non-grant of arrears of pension and eligibility for pension from a particular date i.e. 01.07.2020 – Aggrieved, respondent filed writ appeal before the Division Bench of the High Court and same was allowed – Correctness:

Held: Each administrative circular was independent in itself where the competent authority had taken a well-informed, considered, and gauged decision with regard to the applicability, liability and financial implications, apart from the other aspects – Each time, as is apparent, different aspects were taken note of – In some cases, it was provided for retrospective effect, while in others it was restricted to employees up to a particular date, and yet another only to those employees who were in service while on yet another occasion to both ex-employees and in-service employees – What is apparent, therefore, is that on each occasion, there was a specific time frame fixed for giving an option, and the benefit was similarly limiting it to the beneficiaries – The financial burden and the liability are prominent aspects taken into consideration by the Government while granting its no objection to the proposed Scheme – In the instant case, the retrospective financial burden would have resulted in an unjustified liability of over 900 crores for the RBI, which would have led to a financially unsustainable scenario – It is settled that individual hardships cannot justify altering a rule of general application and underscored that the determination of cut-off dates is a matter of policymaking – This function squarely lies within the domain of the rule-making authority, not the judiciary, as courts cannot assume the role of framing or modifying policy decisions in the guise of judicial review – Therefore, it cannot be said that the cut off date, as fixed for grant of pension while refusing its retrospectivity, thereof would be arbitrary or illegal or discriminatory in nature – The Respondent, therefore, cannot be permitted to choose a particular aspect of the Scheme that makes it unworkable, and that too for his own financial benefit – Approbation and reprobation would not be permissible in such schemes – Respondent having once opted for the Scheme cannot be permitted to not accept a part thereof while intending to take the benefit of the Scheme as a whole – Thus, the impugned judgment passed by the Division Bench of High Court is hereby set aside and the Judgment of the Single Judge dismissing the writ petition preferred by the respondent is restored. [Paras 29, 30, 33, 34, 39, 42]

Case Law Cited

Mohammad Ali Imam and Others v. State of Bihar and Others **(2020) 5 SCC 685;** *State of Punjab and Others v. Amar Nath Goyal and Others* **[2005] Supp. 2 SCR 549 : (2005) 6 SCC 754 – relied on.**

State of Tripura and Others v. Anjana Bhattacharjee and Others **[2022] 11 SCR 14 : (2022) 19 SCC 705;** *Hirandra Kumar v. High Court of Judicature at Allahabad and Another* **[2019] 2 SCR 608 : (2020) 17 SCC 401;** *Himachal Road Transport Corporation and Another v. Himachal Road Transport Corporation Retired Employees Union* **[2021] 2 SCR 104 : (2021) 4 SCC 502;** *T.N Electricity Board v. R. Veerasamy and Others* **[1999] 2 SCR 221 : (1999) 3 SCC 414 – referred to.**

List of Acts

Gratuity Act, 1972; RBI Pension Regulations, 1990.

List of Keywords

Service Law; Pension; Contributory Provident Fund; Pension Scheme; Retirement date; Arrears of pension; Serving and retiring employees; Switch over to pension scheme from CPF scheme; Entitlement to the grant of arrears of pension from the date of retirement; Financial burden; Liability; Retrospective financial burden; Individual hardships; Policymaking; Judiciary.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 13962 of 2024

From the Judgment and Order dated 18.12.2023 of the High Court of Kerala at Ernakulam in WA No. 1037 of 2023

Appearances for Parties

Advs. for the Appellant:
Shyam Divan, Sr. Adv., Ramesh Babu M.R., Nisha Sharma, Yashvardhan Singh, Ms. Anshula Laroriya, Ms. Jagriti Bharti.

Advs. for the Respondents:
Yohannan I, Ms. Aishwarya Mary Mathew, Manu Krishnan G.

Judgment / Order of the Supreme Court

Judgment

Augustine George Masih, J.

1. In this Appeal, challenge has been raised by the Reserve Bank of India ("RBI") to the Division Bench Judgment of the Kerala High Court dated 18.12.2023 whereby the appeal preferred by Respondent No.1 against the Judgment of a Single Judge dismissing his Writ Petition for grant of pension with effect from the date of his retirement i.e. 01.12.2014, stood dismissed after he exercised his option as per the RBI Regulations/Circular dated 14.09.2020.

2. The facts are not in dispute and therefore are being referred at the very outset.

3. The employees of the RBI prior to 1990 were governed by the Contributory Provident Fund ("CPF") and the payment of the Gratuity Act, 1972 ("Gratuity Act"). For the first time, on 29.10.1990, the RBI with approval from its Central Board of Directors introduced the RBI Pension Regulations, 1990. Employees were informed vide Administration Circular No. 6 to the effect that the said regulations would come into effect from 01.11.1990 giving an option to the existing employees to join the said Pension Scheme or to continue with the RBI's CPF. All new employees who joined on or after 01.11.1990 were to be governed by the 1990 Regulations. It also provided that the employees in service as on 01.01.1986 who retired before 01.11.1990 were also eligible for pension upon refunding the amount of CPF share of the RBI with accrued interest as received by them on their retirement, along with simple interest thereon at the rate of 6%. According to Regulation 31 thereof, employees retiring between 01.01.1986 and 31.10.1990, although eligible to join the Pension Scheme, would receive the pension only from 01.11.1990 onwards, with no arrears for the period before the said date. On 07.02.1992 RBI issued another Administration Circular No. 5 amending the Pension Regulations, 1990 effective from 06.02.1992. Existing employees (excluding those on leave preparatory to retirement) were given a fresh option to switch to the Pension Regulations. Here again, no retrospective pensionary benefits were granted.

4. On 14.10.1995, Administration Circular No. 4 providing for another opportunity for existing employees as on 01.11.1992 excluding those on Leave Preparatory retirement to opt for the Pension Regulations. On this occasion, the refund of the CPF contribution made by the RBI and accrued interest was to be effected with 12% simple interest. It was clarified that it was not applicable to employees who had retired before 01.11.1992 making it prospective.

5. Three attempts made by the RBI to give another option to its employees to switch over from CPF to the Pension Scheme did not find favour with the Government of India on 04.02.2002, 26.02.2018 and 05.03.2019. On 14.09.2020, another Administration Circular No. 1 was issued, which allowed existing CPF optees and former employees who were in service on or after 01.11.1997 and retired with CPF to opt for Pension Regulations. This was obviously, subject to the refund of the CPF plus accrued interest amount pertaining to the RBI's share with 12% simple interest. It is apparent that this Circular was not applicable to employees who had retired before 01.11.1997. A detailed memorandum of procedure for option to be exercised was issued by the RBI on 20.09.2000.

6. Respondent No. 1 joined service of the RBI on 14.09.1981 and became a member of the CPF Scheme in operation then for the staff. During his entire service tenure, until he retired as Manager on 30.11.2014, Respondent No.1 got four options to switch over to the Pension Scheme, starting from 01.11.1990 till 14.09.2000. He chose not to join the Pension Scheme rather continued with the CPF. As a matter of fact, on retirement, he was paid the entire dues of CPF and Gratuity.

7. It appears that Respondent No. 1 filed a Writ Petition before the High Court of Kerala at Ernakulam on 14.02.2020, after the Government of India rejected the proposal of RBI for another option for CPF optees to switch to the Pension Scheme on 05.03.2019. He sought a direction to the RBI to allow him to exercise the pension option as per the 1990 Regulations, and to grant him pension benefits with effect from 30.11.2014, his date of retirement, along with 12% interest on arrears.

8. During the pendency of the Writ Petition, the RBI proposed to the Government of India to grant a final chance for remaining CPF

optee employees, both serving and retired, to opt for the Pension Scheme. No objection was conveyed by the Government to the RBI's proposal on 26.06.2020, for the CPF optees who were in service from 01.11.1990 till 15.11.2000.

9. This permission for the change of option was allowed to the employees subject to refund of the CPF amount with accrued interest as received from RBI on retirement and simple interest as may be decided by the RBI. RBI issued Administration Circular No. 1 on 14.09.2020 opening a last option for the serving and retiring employees who were in Bank service as on 01.11.1990 (the date of introduction of the Pension Scheme) and continued as on 15.11.2000 (the closing date of the last chance given to the employees to exercise pension option). This fresh option for switching over from CPF to Pension Scheme would be subject to certain terms and conditions which were to be specified as per the detailed instructions to be issued in this regard separately by the RBI. However, in this Administration Circular No. 1 itself it was clarified that the eligible employees and the family members would be entitled to draw monthly pension/family pension with effect from 01.07.2020 and no arrears of pension will be paid for the period prior thereto. The payment of pension was made prospective w.e.f. 01.07.2020. It was further clarified that this option was not applicable to the employees who joined bank service on or after 01.01.2012 and were governed by the National Pension Scheme (NPS). Detailed instructions were issued by the RBI on 18.09.2020. The relevant portion thereof reads as follows:

> *"Please refer to Administration Circular No. 1 dated September 14, 2020 regarding opening of option for pension.*
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> *2. The employees who were in the Bank's service as on November 1, 1990 and continued as such on November 15, 2000 are being offered a last opportunity for exercising their option for switching over form Contributory Provident Fund (CPF) to pension scheme under RBI Pension Regulations, 1990 (Pension Regulations), covering the categories, viz. serving employees, retired employees and eligible family members of deceased employees; as under:*
>
> *(i) Serving employees of the Bank who had earlier chosen not to be governed by Pension Regulations and continued*

to retain CPF option, subject to transfer of amount of Bank's contribution to Provident Fund with accrued interest to be credited to the RBI Gratuity and Superannuation Fund (Pension Fund).

(ii) Retired employees of the Bank who had earlier retained CPF option, subject to refund of amount of Bank's contribution to Provident Fund with accrued interest paid to them at the time of their retirement, along with simple interest @3% per annum calculated from the date of receipt of the amount by the employee till the date of refund to the Bank.

(iv) Option for switch-over from CPF to Pension under the Pension Regulations, once exercised, shall be irrevocable.

(v) The option shall not be applicable to employees who joined service on or after 01.01.2012 and are governed by National Pension System.

4. Retired employees:

(i) Eligible Retired employees, as mentioned at Para 2(ii) above, shall exercise their option for joining the Pension Scheme in FORM -1 (R) (copy enclosed) within 90 days from the date of this circular i.e. on or before close of business hours on December 17, 2020. On exercising the option, they shall refund to the Bank in lump sum, within 90 days from the date of this circular i.e. on or before close of business hours on December 17, 2020, the Bank's contribution to Provident Fund and accrued interest thereon paid to them at the time of their retirement along with simple interest @3% per annum calculated from the date of receipt of the amount by the employee till the date of refund to the Bank.

(ii) The duly filled in FORM-1 (R) (copy enclosed) along with details of family duly filled in Form 4 (copy enclosed) shall be submitted by the retired employee at the Regional Office/Central Office Department from where he/she retired.

x x x x x x

(vi) Pre - November 1, 2012 retirees will be eligible for revision of pension, prospectively i.e. from July 1, 2020,

without payment of any arrears, as per the method indicated in circular CO HRMD No. G. 84/ 18491/21.01.00/2018-19 dated March 7, 2019 read with letter CO HRMD No. 27412/21.01.000/2018-19 dated June 26, 2019.

(vii) Eligible retired employees who have exercised their option for pension and refunded Bank's contribution to Provident Fund and accrued interest thereon, along with simple interest @3% per annum as per para 4(i) above will be eligible for full pension from July 1. 2020 upto the date they opt for commutation of pension.

x x x x x x

ix) On commutation of pension, retired employees will draw the basic pension reduced to the extent of commuted portion of pension. In such cases, full pension will be restored fifteen years after the date of commutation of pension.

(x) Failing to deposit amount of Bank's contribution to Provident Fund and accrued interest thereon, along with simple interest @3% per annum as at para 4(i) above within the stipulated time by the retired employee, will render the option for pension exercised by him/her as invalid. Any request for extension of time limit for refund of Provident Fund amount shall be rejected forthwith by respective RO/COD, without reference to Central Office.

(xi) After completion of all formalities, eligible retired employees will start drawing pension with effect from July 1, 2020. No arrears of pension will be paid for the period prior to July 1,2020."

10. A perusal of the above instructions for implementation dated 18.09.2020 makes it amply clear that all the employees who were eligible to switch over from the CPF Scheme to the Pension Scheme and who now opted for the Pension Scheme were required to refund the amount of Bank's contribution to the Provident Fund with accrued interest, along with simple interest at the rate of 3% per annum, calculated from the date of receipt of the amount by the employee from the Bank till the date of refund thereof. The option had to be exercised, and the refund was also to be made to the Bank on or

before 17.12.2020. Commutation of pension was also permitted at the option of the employees. It was specifically so noted and mentioned that the retired employee would start drawing pension with effect from 01.07.2020, and no arrears of pension would be paid for the period prior thereto.

11. Respondent No. 1 on the issuance of the said Administration Circular No. 1 dated 14.09.2020, followed by the detailed instructions for implementation dated 18.09.2020, opted for the Pension Scheme, and the said Pension Scheme had been made applicable to him under which he is admittedly receiving monthly pension. The said Respondent, in the pending Writ Petition moved for an amendment to challenge the denial of entitlement to the grant of arrears of pension from the date of retirement. The said clauses of the Administrative Circular, as well as detailed instruction circular, were challenged to that limited extent, with a prayer for issuance of a writ of mandamus to the RBI to award 12% interest on arrears due to the petitioner by allowing him arrears with effect from the date of his retirement i.e. 30.11.2014.

12. The said amendment was allowed by the High Court on 18.03.2022, and an amended Writ Petition was filed. Upon the RBI filing a Counter to the amended Writ Petition, the Single Judge of the High Court proceeded to decide the Writ Petition, dismissing it *vide* Order dated 04.04.2023, holding therein that the Respondent had well-informed details regarding the non-grant of arrears of pension and eligibility for pension from a particular date i.e. 01.07.2020. Having accepted the same and taken benefit thereof, it was not open to the Respondent to challenge a part of the said Scheme.

13. Upon dismissal of the writ petition, the Respondent preferred a writ appeal which was allowed by the Division Bench on 18.12.2023 entitling the Respondent to pension benefits from the date of his retirement i.e. 30.11.2014, on the grounds that in the earlier administrative circulars, whenever an option had been granted to the serving or retired employees, they were entitled to arrears of pension as well. Denial of such arrears of pension from the date of retirement was held to be discriminatory and arbitrary at the hands of the RBI. A direction was further issued to the RBI to pay the pension benefits within one month from the date of the Order, failing which, it would attract interest at the rate of 6% per annum until realization.

14. The rationale and the reasoning put forth by the Division Bench was that the Respondent, to be eligible to opt for to the Pension Scheme, had to refund the contribution of the bank along with accrued interest with 3% simple interest from the date of the receipt of the said amount till its deposit. The amount having been refunded along with interest, entitled the employees to the benefit of pension from the date of retirement.

15. Another ground which was taken by the Division Bench was that the cut-off date i.e. 01.07.2000 as the effective date of pension was not based upon the RBI Pension Regulations, 1990. Instead, it was an administrative decision to reduce the financial burden, which would unjustly deprive eligible retirees of the rightful pension claim for the earlier period.

16. The stand of the Appellant RBI was that the Pension Scheme, as made applicable, provided for the cut-off date of 01.07.2020 for the grant of benefit of pension, based on the financial liability that would accrue as a result of the change of option. The employees, having received the lump sum amount had been utilizing the same from the date of the retirement till the date of refund, and the 3% interest required to be deposited from the date of receipt of the amount till the date of refund was to take care of the inflation and on the lower side considering that the interest payable on a fixed deposit is much higher. The said amount of 3% was intended to cover merely the administrative and other expenses.

17. Another ground taken in the writ by the RBI with regard to the Respondent having voluntarily accepted a contract which was offered by the RBI, cannot be permitted to selectively accept the beneficial terms and reject the unfavourable ones. The principle sought to be invoked was that the Respondent cannot be permitted to approbate and reprobate at the same time, i.e., accept the Pension Scheme as it is and then demand retrospective benefit of arrears of pension contrary to the agreed terms.

18. In the light of the above, with the judgment of the Division Bench going contrary to the Administration Circular No. 1, dated 14.09.2020, and the instructions for implementation dated 18.09.2020, RBI approached this Court by filing the Special Leave Petition wherein, on notice having been issued, operation of the Impugned Order

entitling Respondent No. 1 to pension from the date of his retirement was stayed. However, his entitlement for monthly pension with effect from 01.07.2020 onwards was ordered to be continued.

19. Learned Counsel for the Appellant has referred in detail to the Administration Circular No. 1 dated 14.09.2020 and 18.09.2020, to contend that the eligibility criteria had been clearly laid down therein and it was also made clear that the pension would be payable with effect from 01.07.2020 and not from the date of retirement. This is apparent from the clarification that no arrears prior to the said date would be paid to an optee for Pension Scheme from the CPF Scheme.

20. The Respondent, having unconditionally accepted all terms of these circulars and filled in the requisite forms etc. and fulfilled the conditions as laid down therein, cannot now be permitted to challenge unfavourable conditions. The Scheme as a whole had to be given effect to as a package deal.

21. An employer is entitled to consider several aspects while fixing a particular date for implementation of a scheme such as financial constraints, administrative exigencies, economic conditions, and other relevant circumstances. With these aspects in mind, the employer is fully justified in fixing some cut-off date, which cannot be said to be arbitrary. The various decisions as conveyed by the Government of India including its earlier refusal to allow a change of option, reflect such a position with regard to the financial burden and liability which the RBI and the Government would have to bear. The final proposal which had been finally accepted, and the financial liability as projected therein, specifically took note of the fact that the arrears of pension would not be paid to the optees as per the 2020 Circular. The nominal interest of 3% charged on the refunded amount was merely for the purposes of covering the administrative expenses, inflation etc.

22. In support of the aspect regarding the policy decision and fixation of the cut-off date, dependent upon the financial liability apart from the administrative exigencies, reference has been made to the judgments of this Court in ***Mohammad Ali Imam and Others Vs. State of Bihar and Others***[1]***, State of Tripura and Others Vs.***

1 (2020) 5 SCC 685

Anjana Bhattacharjee and Others[2], Hirandra Kumar Vs. High Court of Judicature at Allahabad and Another[3], State of Punjab and Others v. Amar Nath Goyal and Others[4] and Himachal Road Transport Corporation and Another v. Himachal Road Transport Corporation Retired Employees Union[5].

23. Another plea which has been taken is that the Respondent had been in service since the year 1981. On all occasions i.e. 1990, 1992, 1995 and 2000 when the options were given for switching over to the Pension Scheme from the CPF Scheme, he decided not to opt for the same and continued with the old scheme. On his retirement, he received all the benefits under the said CPF Scheme. Having failed to opt during these earlier occasions, it would not lie in the mouth of the Respondent to now state that he would be entitled to the same benefit as was available under those administrative circulars. Each circular had its own terms and conditions which the employees opted for and complied, thus entitling them to the benefit as per the said Circular. Similarly, when the latest administrative circular of the year 2020 was issued, it was a complete package detailing therein the pros and cons. Once accepted, the benefits which were earlier conferred under the options made available to the then-retired and in-service employees at the relevant time cannot be claimed by the Respondent. It has also been pointed out that as per the circular of 2020, simple interest of 3% per annum is being charged upon the amount of RBI contributions to provident fund, whereas in the earlier occasions, interest was levied at 6% per annum on the first option followed by 12% per annum on the subsequent occasions. This 3% interest, as was being charged from the employees, was based on the financial calculations and economic considerations keeping in view the fact, that the pension would be payable with effect from 01.07.2020 to the fresh optees to the Pension Scheme. This aspect was clearly mentioned in the administrative circular as well as the detailed instructions which pointed out therein that arrears would not be payable prior to the said date. It has been pointed out that each circular was a scheme in itself, laying down different parameters and requirements to be fulfilled, including the aspect of eligibility with consequential benefits.

2 (2022) 19 SCC 705

3 (2020) 17 SCC 401

4 (2005) 6 SCC 754

5 (2021) 4 SCC 502

24. Some Circulars fixed the cut-off date for the employees to be eligible, others laid down the different interest-rates for refund of the amount etc. Therefore, the 2020 Circular was a complete scheme in itself both liability and benefits which were balanced and worked out based on which approval was granted by the Government of India. The conditions therefore laid down therein were sacrosanct and, once accepted, had to be adhered to. The reasons as assigned by the Division Bench of the High Court are unsustainable as there is no discrimination meted out to the Respondent, and as a consequence of the Judgment of the High Court, huge financial liability would fall upon the Appellant, which was neither envisaged, perceived nor intended. Policy decisions, especially relating to the financial aspects, need not be interfered with. This has been emphasised and based on the judgments referred to above.

25. On the other hand, Counsel for the Respondent has supported the judgment of the Division Bench of High Court. He submits that all through, whenever the Circulars have been issued, the employees have been granted the benefit of arrears of pension from the date of their retirement. Depriving the Respondent of the benefit of the arrears, when the CPF contribution along with the interest, as required stands deposited, would amount to denying the Respondent the benefit of 67 months of pension, which would not be justified and would be discriminatory and arbitrary. Assertion has been made that under the 1990 Pension Regulations, there is nothing mentioned with regard to non-grant of arrears. No issue of financial loss to the Government Exchequer would arise as the Scheme has been duly approved by the Ministry of Finance, and therefore, the said aspect with regard to the financial liability is unsustainable. Learned Counsel has further stated that the RBI itself had been pushing for giving another option to the employees for switching over to the Pension Scheme. Therefore, it cannot now assert that they would not grant the benefit which was earlier granted under the prior Administrative Circulars issued by the RBI. On this basis it is asserted that the Respondent is being discriminated against viz-a-viz the similarly placed employees/retirees.

26. Prayer has thus been made for dismissal of the Appeal.

27. We have considered the submissions made by the Counsel for the parties and, with their assistance have gone through the records of

the case. The first and foremost issue which requires to be considered and decided, and upon which all the ancillary submissions depend is; whether the fixing of the cut off date i.e. 01.07.2020 for grant of pensionary benefits and that too prospectively is in consonance with law or is discriminatory and arbitrary.

28. The details and factum with regard to the various four options which were available to the Respondent during the period he was in employment with the RBI and that he did not opt for switching over to the Pension Scheme in the year 1990, 1992, 1995 and 2000 is not questioned rather admitted. Respondent joined the service on 14.09.1981 and retired as Manager on 30.11.2014. The details with regard to and the requirements under each administrative circular issued on these four occasions have not been disputed.

29. What is apparent, therefore is, that each administrative circular was independent in itself where the competent authority had taken a well-informed, considered, and gauged decision with regard to the applicability, liability and financial implications, apart from the other aspects. Each time, as is apparent, different aspects were taken note of. In some cases, it was provided for retrospective effect, while in others it was restricted to employees up to a particular date, and yet another only to those employees who were in service while on yet another occasion to both ex-employees and in-service employees.

30. Similarly, the rate of interest applicable on the amount to be refunded also varied depending upon the targeted beneficiaries of the Scheme. What is apparent, therefore, is that on each occasion, there was a specific timeframe fixed for giving an option, and the benefit was similarly limiting it to the beneficiaries.

31. Fortunately for the Respondent he was eligible on four occasions to avail the benefits of the Pension Scheme, but he opted out each time and continued with the CPF Scheme. Having taken a considered and calculated decision with regard to non-joining of the Pension Scheme and continuing with the CPF Scheme, the claim of the Respondent has to be considered in the said light.

32. Another aspect which is apparent is that there has been a gap of 20 years, as the option which was given prior to the last one was in the year 2000, and the one which is in question before us is of the year 2020. During this period, on three separate occasions, as mentioned earlier, the Government did not agree with the proposal

of the RBI to grant another option for switching over to the Pension Scheme. It is apparent from the documents placed on the record that the financial details regarding the liability and the calculations based thereon, as part of the proposal for a one-time last option to move to the Pension Scheme were put forth before the Government. As is evident from the said proposal, no liability with regard to arrears of pension was highlighted therein. This is logical as well as it was specifically provided that the pension would be payable with effect from 01.07.2000, and there would be no entitlement of arrears from the date of retirement or otherwise.

33. The financial burden and the liability were therefore, prominent aspects taken into consideration by the Government while granting its no objection to the proposed Scheme for switching to the Pension Scheme to the erstwhile CPF Scheme optee employees.

34. As per the pleadings, the retrospective financial burden would have resulted in an unjustified liability of over 900 crores for the RBI, which would have led to a financially unsustainable scenario. This aspect has also been pressed into service by the Counsel. The decision of the Government falls within the realm of policy decision, keeping in view of the considerations taken note of before ultimately approving the Scheme of switch-over as a last option to the persons who were eligible under it as laid down therein.

35. When this aspect is examined in the light of the law, as settled by this Court in the case of ***Mohammad Ali Imam and Others (supra),*** in Paragraph 11, this Court held thus:

> *"11. Apart from this, there may be other considerations in the mind of the executive authority while fixing a particular date i.e. economic conditions, financial constraints, administrative and other circumstances, and if no reason is forthcoming from the executive for fixation of a particular date, it should not be interfered with by the Court unless the cut-off date leads to some blatantly capricious or outrageous result. In such cases, it has been opined that there must be exercise of judicial restraint and such matters ought to be left to the executive authorities, to fix the cut-off date, and the Government thus, must be left with some leeway and free play at the joints in this* connection. Even if no particular reasons are given for

the cut-off date by the Government, the choice of cut-off date cannot be held to be arbitrary (unless it is shown to be totally capricious or whimsical) — *State of A.P.* v. *N. Subbarayudu* [*State of A.P.* v. *N. Subbarayudu*, (2008) 14 SCC 702 : (2009) 2 SCC (L&S) 172]."

In ***State of Punjab and Others (supra),*** in paragraphs 32, 32, 34 and 37, this Cout held thus:

32. The importance of considering financial implications, while providing benefits for employees, has been noted by this Court in numerous judgments including the following two cases. In State of Rajasthan v. Amrit Lal Gandhi [(1997) 2 SCC 342 : 1997 SCC (L&S) 512 : AIR 1997 SC 782] this Court went so as far as to note that:

"Financial impact of making the Regulations retrospective can be the sole consideration while fixing a cut-off date. In our opinion, it cannot be said that this cut-off date was fixed arbitrarily or without any reason. The High Court was clearly in error in allowing the writ petitions and substituting the date of 1-1-1986 for 1-1-1990." [Ibid., at AIR p. 784, para 17 : SCC p. 348, para 17 (emphasis supplied).]

33. More recently, in Veerasamy [(1999) 3 SCC 414 : 1999 SCC (L&S) 717] this Court observed that, financial constraints could be a valid ground for introducing a cut-off date while implementing a pension scheme on a revised basis [Supra fn 2 SCC at p. 421 (para 15).] . In that case, the pension scheme applied differently to persons who had retired from service before 1-7-1986, and those who were in employment on the said date. It was held that they could not be treated alike as they did not belong to one class and they formed separate classes.

34. In State of Punjab v. Boota Singh [(2000) 3 SCC 733 : 2000 SCC (L&S) 435] ("Boota Singh") after considering several judgments of this Court in D.S. Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] to K.L. Rathee v. Union of India [(1997) 6 SCC 7 : 1997 SCC (L&S) 1253] it was held that D.S. Nakara [(1983) 1 SCC 305 : 1983 SCC

> *(L&S) 145] should not be interpreted to mean that the emoluments of persons who retired after a notified date holding the same status, must be treated to be the same [Supra fn 13 SCC at p. 735 (para 8).].*
>
> *37. In the instant case before us, the cut-off date has been fixed as 1-4-1995 on a very valid ground, namely, that of financial constraints. Consequently, we reject the contention that fixing of the cut-off date was arbitrary, irrational or had no rational basis or that it offends Article 14."*

In ***State of Tripura (supra)*** the Supreme Court, in reaffirming its earlier rulings such as in ***Amar Nath Goyal (supra)*** and ***T.N Electricity Board vs. R. Veerasamy and Others***[6], held that financial constraints can constitute a valid and non-arbitrary basis for fixing a cut-off date for extending pensionary benefits or pay revisions. It emphasized that economic considerations are germane to governmental policy decisions, and distinguishing between retirees based on such a date does not violate Article 14 of the Constitution. Accordingly, in the present case, the cut-off date fixed under the Pension Rules was constitutionally valid, and the High Court's judgment striking it down was found to be erroneous. In ***Hirandra Kumar (supra)*** the Court clarified that individual hardships cannot justify altering a rule of general application and underscored that the determination of cut-off dates is a matter of policy-making. This function squarely lies within the domain of the rule-making authority, not the judiciary, as courts cannot assume the role of framing or modifying policy decisions in the guise of judicial review.

36. Therefore, it cannot be said that the cut off date, as fixed for grant of pension while refusing its retrospectivity, thereof would be arbitrary or illegal or discriminatory in nature.

37. Moreover, based on the facts of the case, the Respondent cannot be permitted to blow hot and cold in the same breath, as stated above. Each Circular had its own specific terms and conditions, entitling the retirees or in-service employees to the benefits as were laid down therein and that too subject to certain conditions.

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38. The said scheme itself was a well-considered and thoroughly worked-out detailed financial liability aspect. The said Scheme therefore to be operational and effective and above all, a viable one was to operate as a whole. The present Scheme of the year 2020, was a conglomerate of various factors, with each factor working in tandem with the others making it an effective and workable Scheme which when tested on the principles laid down by this Court as referred to above would not fall foul of it.

39. The financial aspect, in itself, is a valid consideration, as stated above, and would be applicable in the present case. The Respondent, therefore, cannot be permitted to choose a particular aspect of the Scheme that makes it unworkable, and that too for his own financial benefit. Approbation and reprobation would not be permissible in such schemes. Respondent having once opted for the Scheme cannot be permitted to not accept a part thereof while intending to take the benefit of the Scheme as a whole.

40. The plea, therefore, as has been sought to be projected amounts to violation of the contractual terms because the Scheme in itself had to be given effect to as a whole.

41. There being no violation of the Constitutional, Statutory or Common Law principles, interference by the Division Bench vide the impugned judgment while setting aside the judgement of the Single Judge cannot sustain.

42. In view of the above, the impugned judgment dated 18.12.2023 passed by the Division Bench of High Court of Kerala, therefore, cannot sustain and is hereby set aside and the Judgment of the Learned Single Judge dated 04.04.2023 dismissing the writ petition preferred by the Respondent is restored. The appeal is allowed.

43. There shall be no orders as to cost.

44. Pending application(s), if any, shall also stand disposed of.

Result of the case: Appeal allowed.

[†]*Headnotes prepared by:* Ankit Gyan