

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P. No. 24441 of 2020**

**Between:**

T.Hemanth Kumar Yadav and others

... Petitioners

And

Telangana State Co-operative  
Apex Bank Ltd and others.

... Respondent

**JUDGMENT PRONOUNCED ON: 11.09.2023**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to  
see the fair copy of the Judgment? : yes

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 24441 of 2020****% 11.09.2023****Between:**

# T.Hemanth Kumar Yadav and others

..... Petitioners

**And**\$ Telangana State Co-operative  
Apex Bank Ltd and others.

... Respondents

&lt; Gist:

&gt; Head Note:

! Counsel for the Petitioner : Mr N.Mohan Krishna

^ counsel for Respondent No.1 : Mr Rohit Pogula

? Cases Referred:

1. (1983) 1 SCC 305
2. 1978 (1) SCC 248
3. (1979) II LLJ 217 SC page 1734

**HON'BLE MRS JUSTICE SUREPALLI NANDA**

**W.P. No. 24441 of 2020**

**ORDER:**

Heard Mr. N. Mohan Krishna, learned counsel appearing for the Petitioners and Mr. Rohith Pogula, the Counsel appearing for the 1<sup>st</sup> respondent.

2. This writ petition is filed to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus to declare the Clause 2 of item 49 of the resolution passed in 49<sup>th</sup> meeting of the Board of management of the 1<sup>st</sup> respondent Bank convened on 15.09.2020 as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India apart from the same being contrary to the settled law of the land and set aside the same and consequently declare that the petitioners are entitled for the benefit of additional pension/superannuation benefit conferred under Resolution 49 of the 49<sup>th</sup> meeting of the Board of Management of the Bank with all consequential benefits.

3. **The case of the petitioner, in brief, is as follows:**

a) The petitioners are retired from service, on various dates during the year 2015 onwards, in various positions, of the respondent bank and initially, they were employees of Andhra Pradesh State Co-operative Bank Ltd., and subsequently after bifurcation, they became the employees of the 1<sup>st</sup> respondent from 01.04.2015.

b) Before bifurcation of the State, erstwhile bank had introduced a scheme called the APCOB Employees Performance Incentive cum Contributory Superannuation Benefit Scheme (EPICSBS). The said scheme had been evolved by way of Memorandum of Understanding dated 11.11.2011. The basic feature of the Memorandum of Understanding is to extend a defined superannuation benefit scheme to all the regular employees in order to provide an incentive to employees and other benefits.

c) In pursuance of the said memorandum of understanding, a circular vide Ref.HRD/A/F.557, dated 23.11.2011 had been issued to all the staff members of the bank, wherein the monthly pre-defined Superannuation benefit was to be extended to those employees, who are on

the rolls of the bank as on 04.11.2011 including the cadre they were holding as on the said date i.e. on 04.11.2011.

d) Since all the petitioners herein retired after attaining the age of superannuation, and were well within the eligibility criteria and they were getting pension as prescribed in the schedule depending upon the post/designation. However, while extending the benefits on one hand to the cadre of employee on rolls as on 04.11.2011, on the other hand, at the same time negating the same by fixing a date to say that employees who are on rolls as on 01.04.2020 and covered under existing pension scheme is an arbitrary exercise of power on part of the 1<sup>st</sup> respondent Bank. Thus, the petitioners, who have retired prior to 01.04.2020 are deprived of the benefit of Additional pension benefit in breach of Article 21 of the Constitution of India. Hence, this writ petition.

**4. The counter affidavit filed by the 1<sup>st</sup> respondent, in particular, paras 11 to 15 read as under:**

"11. It is submitted that, considering the said report, the Board of Management of the Bank vide Resolution No.49, dated 15.09.2020 and the General Body of the Bank vide Resolution No.8, dt.15.9.2020, resolved to

provide additional pension/superannuation benefit to the employees who are already covered under the existing Scheme @ 1.5 (one-and-half) times of the defined pension that would be received by each employee on superannuation as per the existing scheme. It is submitted that, Board of Management and the General Body of the Bank had resolved that the cadre of the employee as on 4.11.2011, the date on which the existing pension/superannuation benefit is frozen, shall be taken for the purpose of extending the additional benefit, irrespective of the present cadre or cadre at the time of retirement. It is further resolved that, the additional pension/superannuation benefit, defined, would be received by employees of various cadres frozen as on 4.11.2011. It was still further resolved that this scheme of additional pension would be extended to the employees who are on rolls as on 01.4.2020 and covered under the existing TSCAB EPICSBS. It was further resolved that, in case of employees who were on rolls as on 1.4.2020 and covered under the existing TSCAB EPICSBS and expired after 1.4.2020, the additional pension/superannuation benefit shall be extended to the spouse of the employee. Thus, the above resolution specifies the effective date of the additional pension/ superannuation benefit to the employees who are on rolls as on 1.4.2020.

**12.** In reply to the averments of the petitioner in para 8 of the Writ affidavit, it is submitted that, the Board of Management of erstwhile APCOB vide Resolution No.41 dt.4.11.2011 and the General Body of erstwhile APCOB vide Resolution No.8. dt.4.11.2011 resolved to set up "The APCOB Employees Performance Incentive-cum-Contributory Superannuation Benefit Scheme Trust" and formulate a Group Superannuation Scheme w.e.f. 4.11.2011 for providing defined Superannuation benefit to the employees by entering into a scheme of Insurance with SBI Life Insurance Co. Ltd., approved by IRDA. It is submitted that the said scheme being a new scheme was made applicable with its effective date as 4.11.2011, i.e., from the date of approval of scheme by the General Body of the Bank to the set of employees who were on rolls as on that date.

**13.** It is submitted that the Board of Management of TSCAB vide Resolution No.49, 18.8.2000 and the General Body of TSCAB vide Resolution No.8, dt.15.9.2020 resolved to provide additional pension/superannuation benefit scheme, a new scheme, to its employees who are on rolls as on 1.4.2020 and covered under the existing TSCAB EPICSAS. It is submitted that, since the additional pension scheme being new and is evolved during the financial business year 2020-21, the same was extended effective from 01.04.2020 and could not be extended with any retrospective date, which is as per Law and as such

there cannot be any averment of discrimination attributed to resulting in violation of Articles 14, 16 and 21 of the Constitution of India.

**14.** In reply to the averments of the petitioner in para 9 of the Writ Affidavit, it is submitted that, both the Superannuation Benefit Schemes extended during the year 2011 and the present scheme under contest are different and not linked to each other. It is submitted that the Resolution of the General Body clearly specifies that only the cadre of the employee of the Bank who has been extended the scheme as on 4.11.2011 is taken as reference for determining the quantum of the benefit to be provided to that employee in respect of the new scheme. It is submitted that the intent of the Resolution is that, this new scheme (effective from 01.04.2020) is to be extended only to such of the employees who are on rolls on 01.04.2020 and covered under the existing TSCAB EPICSBS and such a reference was necessary as it is intended to that strata only. Hence, both the schemes cannot be taken as being linked together.

15. It is further submitted that, the new pension scheme introduced w.e.f. 1.4.2020 is not an extension of the earlier Performance Incentive-cum-Contributory Superannuation Benefit Scheme introduced w.e.f. 4.11.2011. It is a separate new pension scheme extended to the employees who are on rolls as on



1.4.2020. It is submitted that, both the Schemes have separate Trusts being administered separately. The terms and conditions of the both the Schemes are also different as noted hereunder:

S.No.	TSCAB EPICSBS (effective from 04.11.2011)	TSCAB PSBS-II (Effective from 10.04.2020)
01.	It is maintained with SBI Life Insurance Co. Ltd	It is maintained with LIC
02.	It is a performance linked Incentive scheme	It is not linked to performance of the employees
03.	The contribution of corpus by Employees and employer is 30% and 70% respectively.	

**PERUSED THE RECORD :**

**5. The scheme of the APCOB Employees Performance Incentive cum Contribution, Superannuation Benefit Scheme and Rules thereof, in particular, Rule III coverage, quantum of pension and eligibility of pension, reads as under:**

**III Coverage:**

- i) All the regular employees of the APCOB, on the payrolls of the Bank as on 04.11.2011 (as on the date of approval of the Scheme by the Board) shall be eligible to be covered under this scheme.
- ii) Regular employee means and includes a person who has been appointed on regular basis on

regular pay scale and borne on the rolls of the bank as on 04.11.2011.

#### **IV QUANTUM OF PENSION**

Category (in Rs.)	Cadre	Monthly Pension
I	Chief General Manager	10,000/-
II	General Manager	9,000/-
III	Dy General Manager	8,000/-
IV	Asst.General Manager/Manager	7,000/-
V	Staff Assistant	5,000/-
VI	Attender	4,000/-

#### **Rule V Eligibility for Pension**

i) To become eligible for pension under the above Scheme, an employee should have superannuated at the age prescribed for such Superannuation by the Bank and should have been on the pay rolls the Bank as on 04.11.2011.

ii) Regular employees, not superannuating on the prescribed age, who resign or retire voluntarily (VRS) after putting in 25 years regular service, would be eligible for payment of Pension under the above scheme, as per his corpus (employer + employee respectively) available in his account. Fixed pension will not apply.

iii) In case the employee resigns or retires voluntarily before completion of 25 years of service, then the employee will not be eligible for the corpus contributed by the Bank. He can only utilize his contribution for the purchase of pension.

iv) Those employees, who have contributed their prescribed share of corpus in full to the pension scheme only, are eligible to be covered under the scheme.

v) The scheme is, at present, covered by the Rules and Regulations of Cap Assure Scheme of SBI Life Insurance Company Ltd.

**6. Proceedings dated 25.09.2020 of the Deputy General Manager addressed to the President and Members of the Board of Management of Telangana State Cooperative Apex Bank Ltd., ref. TSCAB/Board Sectt/F.No.CF/1, reads as under :**

“Sub: 49<sup>th</sup> Meeting of Board of Management of the Bank convened on 15<sup>th</sup> September, 2020 at 11.30 AM – Proceedings of the Meeting – Communication thereof – reg.

\* \* \*

We enclose herewith the proceedings of the 49<sup>th</sup> Meeting of the Board of Management of Telangana State Coop. Apex Bank Ltd., held on 15<sup>th</sup> September, 2020 at 11:30 AM in the Board Room, TSCAB Head Office, Hyderabad.”

**7. 49<sup>th</sup> Meeting of the Board of Management of Telangana State Co-operative Apex Bank Ltd., held on Tuesday the 15<sup>th</sup> September, 2020 at 11.30 a.m., in the Board Room, 2<sup>nd</sup> Floor, TSCAB Head Office, Hyderabad.**

**8. In so far as the issue pertaining to enhancement of pension to employees who are extended pension**

**scheme and the decision on the said issue, reads as under:**

**"SUBJECT:**

**HRD Dept.:** Defined Superannuation benefit to the employees of TSCAB – Request made by Service Unions of employees of the Bank (TOFA & TEU) for (i) enhancement of pension to the employees who are extended pension scheme and (ii) introduction of new pension scheme to employees who are not extended pension scheme – Constitution of Board Sub-committee on pension to study on the pension scheme for the employees of the Bank including the immediate financial commitment and also the recurring financial commitments of the Bank and submit the Report – Report submitted by the Board Sub-committee – placed before the Board of Management for its approval and for recommending to the General Body for its approval – Consideration of.

**RESOLUTION:**

**The subject was deliberated at length and resolved as under:**

1. Resolved to provide additional pension/ superannuation benefit to the employees who are already covered under TSCAB Employees Performance Incentive cum Contributory Superannuation Benefit

Scheme (TSCAB EPICSBS) @ 1.5 (one – and half) times of the pension that would be received by each employee on superannuation as per the existing scheme. The cadre of the employee as on 4.11.2011, the date on which the existing pension/superannuation benefit is frozen, shall be taken for the purpose of extending the additional benefit, irrespective of the present cadre or cadre at the time of retirement. The additional pension/superannuation benefit that would be received by employees of various cadre frozen as on 4.11.2011 under this scheme shall be as follows:

Category	Cadre as on 4.11.2011	Monthly Additional Pension (in Rs.)
I	Chief General Manager	15,000/-
II	General Manager	13,500/-
III	Dy General Manager	12,000/-
IV	AMG/Sr.Manager/Manager Scale-I	10,000/-
V	Staff Assistant	7,500/-
VI	Attender	6,000/-

2. Resolved that the scheme of additional pension shall be extended to the employees who are on rolls as on 1.4.2020 and are covered under the existing TSCAB EPICSBS. The employees who retired after 1.4.2020 shall also be covered in this scheme. In case of employees who were on rolls as on 1.4.2020 and covered under the existing TSCAB EPICSBS and expired after 1.4.2020, the additional pension/superannuation benefit shall be extended to the spouse of the employee;

**DISCUSSION AND CONCLUSION:**

**DISCUSSION :**

9. It is the specific case of the Petitioner that the 1<sup>st</sup> Petitioner herein and other petitioners are retired employees from Telangana State Cooperative Apex Bank Ltd., having served the said bank in different capacities and the grievance of the Petitioner in the present writ petition pertains to the TSCAB Employees Performance Incentive- cum- Contributory Superannuation Benefit Scheme Amendment in the said bank through a resolution dated 15.09.2020. It is further the case of the Petitioner that the Petitioners retired from the services prior to 01.04.2020 without availing the TSCAB Employees Performance Incentive-cum-Contributory Superannuation Benefit Scheme introduced in the said bank on 04.11.2021. In the 49<sup>th</sup> Meeting of the Board of Management of Telangana State Cooperative Apex Bank Ltd., held on 15.09.2020 in the presence of the President and Members of the Board of Management of TSCAB it was resolved to amend the said scheme by way of enhancing the existing pension benefit @ 1.50 times of the pension that would be

received by each employee on superannuation to the extent of employees who have been covered under the said scheme. This enhancement however, is made with a retrospective effect i.e., only from 01.04.2020, further it was also stated that the scheme of enhanced pension shall be extended only to the employees who are on the rolls of the bank as on 01.04.2020 and retired thereafter. The Petitioners however were denied the enhanced/additional benefits of the said pension scheme on an unfair ground that the Petitioners retired prior to the above said date i.e., 01.04.2020. It is the specific case of the Petitioners that since the Petitioners are beneficiaries under the original scheme, the Petitioners deserve to receive the enhanced benefit under the Employees Performance Incentive-cum-Contributory Superannuation Benefit Scheme, because the enhancement is a continuation of the said scheme. It is further the specific case of the Petitioner that since the Petitioners are the very same class of the pensioners who come under retired employees i.e., along with the employees who are on rolls as on

01.04.2020 and members under the EPICSBS retiring after 01.04.2020, they are being deprived from the additional benefits due to the arbitrary and discriminatory clause of elimination in the resolution passed by Board of Management on 15.09.2020 by fixing a cutoff date (01.04.2020). The Petitioners through the present writ petition are seeking a direction against the Respondents to extend the scheme to the Petitioners also on par with other employees as the Petitioners are already covered under the said TSCAB Employees Performance Incentive-cum-Contributory Superannuation Benefit Scheme and are lawfully eligible to get the benefit of enhanced pension as per the new formula of computation of pension subsequently brought into force. It is the specific grievance of the Petitioners that the Petitioners have been excluded from receiving the above enhanced benefit just because the petitioners retired prior to the said date of 01.04.2020 and the said exclusion is regarded by the petitioners as grossly unfair. The Petitioners vide detailed representations dated



22.10.2020, 17.11.2020, addressed to the 1<sup>st</sup> Respondent herein duly marking a copy to other Respondents requested for the intervention of the Respondents to ensure that the Petitioners also receive the fruits and the benefit of their services since the pension has been enhanced to some of the employees who were with the Petitioners on 04.11.2021 and who were there as on 01.04.2020. The Petitioners contend discrimination and violation of Article 14 and aggrieved by the same approached the Court and filed the present writ petition.

**CONCLUSION :**

10. The averments in the counter affidavit filed by the Respondents paras 11 to 18 indicate that the intent of the resolution is that, this new scheme (effective from 01.04.2020) is to be extended only to such of the employees who are on rolls on 01.04.2020 and covered under the existing TSCAB EPICSBS and such a reference was necessary as it is intended to that start only. Further a specific stand is taken in the counter affidavit

filed by the 1<sup>st</sup> Respondent that the new pension scheme introduced with effect from 01.04.2020 is not an extension of the earlier Performance Incentive-cum-Contributory Superannuation Benefit Scheme, but it is a separate new pension scheme extended to the employees who are on rolls as on 01.04.2020 and that both the schemes have separate Trusts and they are being administrated separately. It is further the specific stand of the 1<sup>st</sup> Respondent that both the superannuation benefits schemes extended in the year 2011 and the present scheme under contest are different and not linked to each other and further the resolution of the General Body clearly specifies that only the cadre of the employee of the bank who have been extended the scheme as on 04.11.2011 is taken as a reference for determining the quantum of the benefit to be provided to that employee in respect of the new scheme and the Respondents therefore pray that the writ petition is to be dismissed since there is no breach of protection of life and personal liberty as enshrined in Article 21 of the Constitution of India.

**11. The Apex Court in D.S.Nakara & Others vs. Union of India vide its judgment dated 17.12.1982 reported in 1983 AIR 130 held as under :**

“HELD: Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It is attracted where equals are treated differently without any reasonable basis. The principle underlying the guarantee is that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation and there should be no discrimination between one person and another if as regards the subject-matter of the legislation their position is substantially the same. Article 14 forbids class legislation but permits reasonable classification for the purpose of legislation. The classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object sought to be achieved by the statute in question. In other words, there ought to be causal connection between the basis of classification and the object of the statute. The doctrine of classification was evolved by the Court for the purpose of sustaining a legislation or State action designed to help weaker sections of the society. Legislative and

executive action may accordingly be sustained by the court if the State satisfies the twin tests of reasonable classification and the rational principle correlated to the object sought to be achieved. A discriminatory action is liable to be struck down unless it can be shown by the Government that the departure was not arbitrary but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.

Thus, the fundamental principle is that Article 14 forbids class legislation but permits reasonable classification for the purpose of legislation which classification must satisfy the twin tests of classification being founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object sought to be achieved by the statute in question.

**12. This Court opines that since the Petitioners were on the rolls as a frozen cadre as on 04.11.2011 they became eligible to receive the pension that was introduced for the first time during November 2011 vide Circular dated 23.11.2011 but while on one breath the bank is contending in the newly introduced enhanced scheme that employees who are on the rolls as on 04.11.2011 and continued to be on the rolls as on**

**01.04.2020 alone are eligible, they are negating the benefit of enhanced pension to all those employees who retired prior to 01.04.2020, thus the Petitioners who retired prior to 01.04.2020 are deprived of the benefit of additional pension in breach of Article 21 of the Constitution of India.**

**13.** The Apex Court while dealing with a similar situation of revision of pension to Central Government employees had in depth gone into the aspect of need of pension. It has also gone into the aspect of fixing a date and its relevance for bringing the persons into eligible criteria and at the same time eliminating the persons from the eligibility criteria. While analyzing the situation and the circumstances which are similar to the present case on hand, the Apex Court has categorically held that the classification of employees who retire on or after a particular date will be eligible was held as arbitrary and illegal stating that the pensioners themselves form a homogenous group and if the date of retirement is a valid criterion for classification, those who retire at the end of every month shall form a class by themselves. This is too microscopic a classification to be upheld for any valid purpose.

14. The five Judge Bench of the Apex Court in judgment dated 17.12.1982 reported in D.S.Nakara and others v Union of India, speaking through Hon'ble Chief Justice Y.V. Chandrachud has scanned the law of arbitrariness with reference to the aspect and considering various leading judgments on the point right from Maneka Gandhi V. Union of India, was pleased to hold ultimately that fundamental principle is that "Article 14 forbids class legislation, but, permits reasonable classification for the purpose of legislation which classification must satisfy the twin test of classification being found on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and the differentia must have a rational nexus to the object sought to be achieved by the statute in question. The State, therefore, would have to affirmatively satisfy the Court that the twin tests have been satisfied. It can only be satisfied if the State establishes not only the rational principle on which classification is founded but correlate it to the objects sought to be achieved. This

approach is noticed in **Ramana Dayaram Shetty, V The International Airport Authority of India and others in (1979) 11LLJ217SC**, wherein, at page 1034, the court observed that a discriminatory action of the Government is liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irritational, unreasonable or discriminatory. Ultimately, the Apex Court held that by introducing an arbitrary eligibility criteria of fixing a specified date dividing a homogeneous class, the classification being not based on any discernible rational principle found wholly unrelated to the objects sought to be achieved violates Article 14 and is unconstitutional and was struck down.

15. This Court opines that there is no rationale or reason in fixing the date 01.04.2020, because, the very scheme itself would say as under:

'resolved to provide additional pension/superannuation benefit to the employees who are already covered under The APCOB 'Employees Performance Incentive cum Contributor Superannuation Benefit Scheme.'

16. Therefore, once, if the purpose of the resolution and the intention of the bank is shown that it is to enhance the existing pension, none of the employees who retire and those who are drawing existing pension prior to 01.04.2020 are eliminated by stipulating the date in clause 2) of the resolution 49. This Court opines that the respondents failed to justify the said date since the said date has no nexus for the very object and intention of introducing this enhanced pension scheme. Once the said date doesn't have any nexus to the object sought to be achieved, it is hit by Article 14 as held by the Apex Court in well settled law in D.S. Nakara Vs. Union & India reported in 1983 (1) SCC page 305.

17. The Division Bench of High Court of Andhra Pradesh at Hyderabad, in judgment dated 23.12.2003 in W.P.Nos.16719 and 18490 of 2003 dealing with a similar situation at para 9 observed as under and the writ petitions filed by the Government were dismissed:

"9. Therefore, the pensioners who retired prior to 25.5.1998 and after 25.5.1998 form a homogeneous group and they cannot be made as a heterogeneous



group as observed by the Supreme Court in D.S.N. Nakara's case. The right to receive pension is a continuing right. If any revision of the scheme takes place, the said revision accrues to the pensioner from the date of the order, but it cannot be said that the revised scheme has bifurcated the pensioners into two categories, i.e., pre-revised pensioners and post-revised pensioners. The only effect is that the continuing rights of the petitioners get revised as per the modified scheme. Thus, the principle is that the pensioners forming homogeneous group by themselves cannot be bifurcated consequent on the issuance of G.O.Ms.No.87, dated 25.5.1998 and such discrimination attracts the wrath of Article 14 of the Constitution of India. The decisions relied on by the learned Additional Advocate General are not applicable to the facts of these cases as in those cases a fresh date was introduced with reference to the revised pay scales and in some cases a specific cut-off date has been brought into effect, but in the cases on hand though the scheme as such is continued, the only mode of calculation is instead of calculating the pension on the basis of ten months average pay it was changed to last drawn pay. **In STATE OF WEST BENGAL vs. RATAN BEHARI DEY's case, the facts are different. In that case old pension scheme was given up and P.F. scheme was introduced for the first time with effect from**

**1.4.1977. The cutoff date was held to be valid by the Supreme Court. The Supreme Court held:**

The State Government appointed a Commission to examine the said demand and to recommend the necessary measures in that behalf. The three members constituting the Commission differed with each other in certain particulars. The Government examined their recommendations and accepted them with certain modifications in the year 1981. After processing the matter through relevant departments, the Regulations were issued and published in the year 1982. In the above circumstances, the State Government thought that it would be appropriate to give effect to the said Regulations on and from April 1, 1977 i.e., the first day of the financial year in which the Pay Commission was appointed by the Government - a fact which could not have been unknown to the Corporation employees. We cannot say that the Government acted unreasonably in specifying the said date. It may also be said that, that was the year in which the Left Front came into power in that State, but does not detract from the validity of the aforesaid reasons assigned by the State in its counter-affidavit filed before the Division Bench of the High Court. We are not in agreement with the opinion expressed by the High Court that the

reasons assigned by the State Government are neither relevant nor acceptable".

**18. Distinguishing KRISHNA KUMAR VS. UNION OF INDIA case and D.S.NAKARA'S, the Supreme Court observed as follows:**

"As rightly pointed out in Krishna Kumar, Nakara was a case where an artificial date was specified classifying the retirees, governed by the same Rules and similarly situated, into two different classes, depriving one such class of the benefit of liberalized Pension Rules. It was found in that case that the specification of the date (from which the liberalized Rules were to come into force) was arbitrary. Whereas in this case, the employees retiring prior to April 1, 1977 and those retiring thereafter were governed by different sets of rules. The argument to the contrary may mean that the Government can never change the conditions of service relating to retiral benefits with effect from a particular date. No such absolute proposition can be stated that while effecting any such change, no date from which such change will come into force can be specified. As stated above, a date can be prescribed but such date should not be drawn in such a manner as to bring about discrimination between persons situated

**similarly i.e., in a manner violative of Article 14. This aspect has been elaborately dealt with and explained in Krishna Kumar and we do not think it necessary to repeat the same".**

19. Taking into consideration the above referred facts and circumstances and the law laid down by the Apex Court in the judgments referred to and extracted above in D.S. Nakara Vs. Union of India reported in (1983) 1 SCC 305, in Menaka Gandhi Vs. Union of India reported in 1978 (1) SCC 248, and the judgment of the Apex Court in Ramana Dayaram Shetty Vs. The International Airport of India & Others reported in (1979) II LLJ 217 SC page 1734, the writ petition is allowed as prayed for and Clause 2 of item 49 of the Resolution passed in the 49<sup>th</sup> Meeting of the Board of Management of the 1<sup>st</sup> Respondent Bank convened on 15.09.2020 is declared as illegal and is set aside in so far as the Petitioners herein are concerned and consequently it is declared that the Petitioners are entitled for the benefit of additional pension/superannuation benefit conferred under Resolution 49 of the 49<sup>th</sup> Meeting of the Board of

the Management of the Bank. The 1<sup>st</sup> Respondent is further directed to extend the benefit of additional pension to the Petitioners as per item 49 of the Resolution passed in 49<sup>th</sup> Meeting of the Board of the Management of the Bank within a period of 4 weeks from the date of receipt of the copy of the order. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

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**SUREPALLI NANDA, J**

**Date: 11.09.2023**

Note: L.R.Copy to be marked.

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