

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

CONTEMPT PETITION (C) NOS.209-311/2019

IN

**C.A. Nos. 1919/2018, 1920-1946/2018, 1947-1954/2018, 1965-
1994/2018, 2005-2016/2018, 2043-2057/2018, 2060-2063/2018**

(@ C.A. NOS.1919-2087/2018)

AND C.A. NOS.3257-3262/2013

H.G. SRINIVAS PRASAD ETC. ETC.

PETITIONER(S)

VERSUS

RAJNISH KUMAR, CHAIRMAN STATE BANK OF INDIA

**RESPONDENT(S)/
ALLEGED CONTEMNOR(S)**

O R D E R

1. Heard learned senior counsel for the parties.
2. Two-fold submission has been raised by Mr. Basava Prabhu S. Patil, learned senior counsel appearing on behalf of the petitioners, with respect to non-compliance of the order passed by this Court. He submitted that, firstly, the dearness allowance has not been correctly calculated as per the Pension Regulation No.37 of Pension Regulations, 1995, whereas, as per the respondent, it has been computed as per the bipartite settlement. Second submission raised is that differential amount of the commutation value of the pension on the basis of the correct dearness allowance has not been paid. Commutation value has not been revised. As per the respondents, the petitioners are not entitled in view of the provisions contained in Rule 41 of the Pension

Regulations, 1995.

3. The order passed by the High Court, of which the implementation has been sought is as under:-

“Circular No.1/2001 dated 2.1.2001 insofar as it seeks to amend Regulation 28 and Circular No.10/2001 dated 11.1.2001 are quashed. The petitioners are entitled to increase in their qualifying service by a period not exceeding five years subject to the condition that the total qualifying service rendered by the petitioners shall not in any case exceed 33 years and does not take them beyond the date of superannuation. The respondent-bank are directed to pay pension to the petitioners after applying the same and the orders by the banks insofar as the same deprived the addition of five years qualifying service are quashed. The petitioners are entitled to payment of pension calculated on the basis of actual pay fixed, personal pay, special pay and other allowances and emoluments drawn by them during the last ten months of service as provided under Regulations 35 and 38 of the Pension Regulations together with Dearness Allowance thereon and the respondent-bank shall pay the differential amount of pension and commutation value of pension to the petitioners on that basis, within a period of eight weeks, if not earlier and in the event of failure to make the payment as above, the banks shall be liable to pay interest at the rate of 10% on the said amounts till the date of payment.”

4. After hearing learned counsel for the parties at length, we are of the opinion that dispute as to the basis of dearness allowance cannot be gone into within the contempt jurisdiction. In case, petitioners are aggrieved by the basis of computation of dearness allowance, they are free to agitate the issue in an independent proceeding before an appropriate forum.

5. With respect to the non-payment of the differential

amount of the commuted value of the pension on revision of the dearness allowance, stand has been taken on the strength of Regulation 41 of the Regulations that by now several petitioners have attained the age of 70 years or more the employer would not be able to recover the amount, in case it is paid.

6. We are of the considered opinion that the shelter of Regulation 41 cannot be adopted by the respondent so as to deprive the revised commuted value of the pension taking into consideration the dearness allowance. There is clear and categorical direction that after the retirement of the petitioners they ought to have been paid the correct value of the pension. Precisely, direction has been made to make the revised correct value of commuted pension that would relate back to the date of the retirement. Consequently, the protection taken of Regulation 41, in our opinion, is not available in view of the clear and categorical order passed by the High Court which has been affirmed by this Court. Thus, we have found that the respondents have to make the payment in due compliance of the order. It is assured to us that the payment would be made within four weeks. Let the payment be made, as assured, within four weeks and compliance be reported within six weeks. In case the compliance is not reported by the respondents, they shall be liable for further proceedings under the contempt of Court by this Court.

7. For the delay in making payment, unconditional apology has been tendered. The same is accepted.

8. Accordingly, the contempt petitions are disposed of. Let compliance be reported to this Court.

9. This order is confined to the facts of the case and considering the order passed by the High Court.

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

.....J.
[ARUN MISHRA]

.....J.
[M.R. SHAH]

.....J.
[B.R. GAVAI]

NEW DELHI;
AUGUST 28, 2019.

ITEM NO.6

COURT NO.4

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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RESPONDENT(S)/
ALLEGED CONTEMNOR(S)

Date : 28-08-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE M.R. SHAH

HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. Basava Prabhu S. Patil, Sr. Adv.
Mr. Shekhar G. Devasa, Adv.
Mr. Manish Tiwari, Adv.
Mr. Luv Kumar, Adv.
For M/s. Devasa & Co.

For Respondent(s) Mr. Neeraj Kishan Kaul, Sr. Adv.
Mr. Sanjay Kapur, AOR
(Appearance slip not given)

UPON hearing the counsel the Court made the following

O R D E R

The contempt petitions are disposed of in terms of the signed order.

**(NARENDRA PRASAD)
COURT MASTER**

**(JAGDISH CHANDER)
BRANCH OFFICER**

(Signed order is placed on the file)