

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**WP.Nos.27653 and 27979 of 2016**

**COMMON ORDER :**

The petitioners in both these Writ Petitions have filed these Writ Petitions challenging the action of respondents in withholding petitioners' monthly pension from the date of their retirement, i.e., 24.03.2015 and 24.12.2015, respectively.

2. After filing of Writ Petitions, the respondents have passed separate orders on 02.09.2016 stating that criminal cases had been filed against petitioners by the State Bank of Bikaner and Jaipur, and that under Clause 11 of the B.H.E.L. Employees Pension Scheme, the petitioners are not entitled to payment of pension.

3. It is not disputed that charge-sheets had been filed against petitioners on complaints lodged by the Bank for non-payment of a loan to buy certain immovable property.

4. Clause 11 of the B.H.E.L. Pension Scheme states :

*“11(i) An employee against whom criminal prosecution for moral turpitude is pending on the date of superannuation will not be eligible for Pension corpus till conclusion of trial. If convicted, the employee will not be eligible for Pension Corpus;*

*(ii) Notwithstanding anything contained in sub-clause (i), the employee shall however be eligible for pension corpus on the date of superannuation / death, if the criminal prosecution has arisen out of bonafide discharge of official duties and the company is defending the matter.”*

5. A reading of the above clauses indicates that only if the criminal prosecution initiated against an employee is for an offence involving moral turpitude, the petitioners would not be eligible for grant of pension.

6. Though there is a plea of cheating in the charge-sheets initiated against the petitioners, essentially the case of the Bank is that the loans availed of have not been paid by petitioners.

7. Non-payment of a loan to a Bank cannot be said to be an offence involving moral turpitude, and it is doubtful if the prosecution initiated against petitioners on the said basis would succeed or not.

8. Therefore, the stand of respondents that petitioners would not be eligible for pension on the ground that there is a criminal prosecution initiated against them for offence involving moral turpitude cannot be sustained.

9. Therefore, the Writ Petitions are allowed with costs of Rs.5,000/- each to be paid by 1<sup>st</sup> respondent within a period of four (04) weeks from the date of receipt of a copy of this order; and the respondents are directed to release the monthly pension to petitioners from the respective dates of their retirement within a period of four (04) weeks from the date of receipt of a copy of this order.

10. As a sequel, miscellaneous petitions pending if any in these Writ Petitions, shall stand closed.

**JUSTICE M.S.RAMACHANDRA RAO**

Date: 29-11-2016

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