



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

**W.P. [MD].No.20910 of 2016**

and

**W.M.P (MD) .Nos.14924 of 2016 and 900 of 2017**

A.Malliga

: Petitioner

Vs.

1.The Circle Development Officer,  
State Bank of India,  
HR Department, Local Head Office,  
Circletop House, Post Box No.737,  
No.16, College Lane, Chennai 600 006.

2.The Branch Manager,  
State Bank of India,  
CT Complex, Dr.Thangaraj Salai,  
Madurai 625 020.

3.The Chairman,  
The State Level Scrutiny Committee,  
and Secretary to Government,  
Adi-Dravidar and Tribal Welfare Department,  
Secretariat, Chennai 600 009. : Respondents

[R-3 impleaded vide order dated 09.02.2017 made in W.M.P. (MD).  
No.1818 of 2017].

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order issued to the petitioner by the second respondent in No.BR/4, dated 31.03.2016 and the impugned order issued by the first respondent in HR:ICT:1232, dated 19.08.2016, quash the same and consequently direct the respondents to pay the withheld pension and other terminal benefits to her.

For Petitioner : Mr.L.Shaji Chellan

For Respondents1&2 : Mr.S.Sethuraman  
Standing Counsel

<https://hcservices.ecourts.gov.in/hcservices/>  
For Respondent No.3 : Mr.VR.Shanmuganathan  
Special Government Pleader

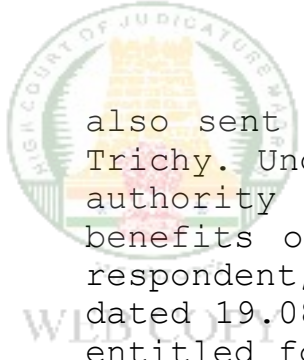
**O R D E R****\*\*\*\*\***

[Order of the Court was made by **R.SUBBIAH, J.**]

This Writ Petition has been filed challenging the order passed by the second respondent dated 31.03.2016 and also the order passed by the first respondent dated 19.08.2016 and for a direction to the respondents to pay the withheld pension amount and the other terminal benefits to her.

2. The case of the petitioner is that she is a retired Assistant Manager in State Bank of India. Initially, she was appointed as a Clerk/Typist in the service of the respondent bank on 26.02.1979. Thereafter, her services were regularized on 07.09.1979. In the year 2007, she was promoted as Assistant Manager and after rendering 37 years of unblemished service, she had retired from service on 31.03.2016, on attaining the age of superannuation. On her retirement, all the terminal benefits payable to her were sanctioned by the authorities concerned. However, leave encashment salary, pension commutation and the personal contribution to Provident Fund were partially settled to her, adjusting the same towards her loan outstanding. The sanctioned pension amount was released only for the months of April and May 2016. While so, all of a sudden, by way of impugned proceedings, dated 31.03.2016, the second respondent informed her that the Provident Fund [Bank's Contribution], Gratuity amount and the monthly pension will be withheld and kept in separate deposit, on the ground that there is a dispute with regard to the community certificate produced by her at the time of appointment. Seeking to cancel the said order, the petitioner submitted a representation to the first respondent on 26.04.2016 with a request to settle her withheld pension and the terminal benefits. However, the first respondent, by his proceedings dated 19.08.2016, reiterating the stand taken by the second respondent, in his proceedings dated 31.03.2016, stated that since the petitioner had joined the respondent bank under the quota reserved for Schedule Tribe Category, the payment of terminal benefits shall entirely depend upon the outcome of the community certificate verification proceedings and accordingly, rejected the claim made by the petitioner. Challenging the above orders, the petitioner has come forward with the present Writ Petition.

3. Today, when the Writ Petition is taken up for consideration, it is submitted by the learned counsel appearing for the petitioner that the petitioner belongs to Hindu Solaga Community. In the year 2001, while the petitioner was in service, community status of the petitioner was verified by the Revenue Divisional Officer, Madurai and a report to that effect was also submitted to the District Collector, Madurai, confirming the genuineness of her community. The District Collector, Madurai, had

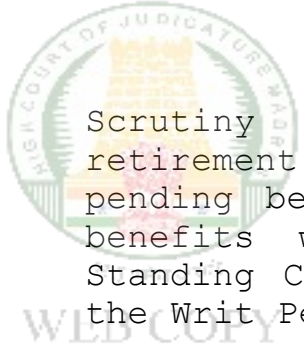


also sent a report to the said effect to the District Collector, Trichy. Under such circumstances, the respondents have no power or authority to withhold her pension and the other retirement benefits of the petitioner. Thus, the order passed by the second respondent, dated 31.03.2016, confirmed by the first respondent, dated 19.08.2016, are liable to be set aside and the petitioner is entitled for the relief sought for.

4. The learned counsel for the petitioner, in support of his contention, made reliance on an order of this Court in **W.P.No.19234 of 2014**, dated **07.07.2015**, [**Union of India and others, Vs. Central Administrative Tribunal and others**], wherein, a similar issue came up for consideration before a Division Bench of this Court and on a careful consideration of all aspects, the Division Bench has allowed the Writ Petition and directed the respondents therein to settle the retirement benefits payable to the petitioner therein with interest.

5. Per contra, the learned Standing Counsel appearing for the respondents bank, referring to the counter affidavit filed by the respondents, submitted that the petitioner joined the service, on the basis of the community certificate issued to her. The community certificate was issued to her based on the school records and the proceedings issued by the District Collector, Trichy. The petitioner had retired from service on 31.03.2016. Her retirement benefits have already been deposited in fixed deposit, since there is a dispute with the community certificate issued to her. It is further submitted by the learned Standing Counsel for the respondents that the pension amount has also been deposited in recurring deposit. The community certificate of the persons appointed against the vacancies exclusively reserved for Schedule Caste and Schedule Tribe have to be verified by the Revenue Authorities concerned. The Government of India, Ministry of Finance, Department of Economic Affairs, by proceedings dated 23.02.1990 had also directed all the Public Sector Banks/Financial Institutions to get the caste certificates of the existing employees belonging to schedule tribes verified.

6. Thus, by virtue of the said proceedings, according to the learned Standing Counsel, the community certificate of the petitioner has been referred to the State Level Scrutiny Committee for verification to find out the genuineness of the same. In fact, two similarly placed persons, by name, Balu and M.Vedanayaki, filed W.P.Nos.13346 and 19055 of 2013, complaining against withholding of their retirement benefits and depositing the same in fixed deposit, till the completion of verification of their community certificates by the State Level Scrutiny Committee. The said Writ Petitions, by a Common Order dated 04.06.2014, were ~~declared as infructuous~~ by this Court. Therefore, the learned Standing Counsel submitted that in the case on hand also, till the completion of verification of her community certificate by the State Level



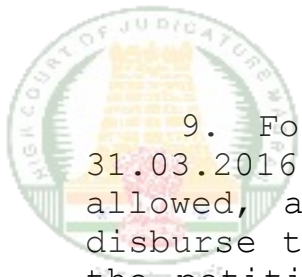
Scrutiny Committee, the petitioner is not entitled to the retirement benefits and subject to the outcome of the proceedings pending before the State Level Scrutiny Committee, the terminal benefits will be paid to the petitioner. Thus, the learned Standing Counsel for the respondents sought for the dismissal of the Writ Petition.

7. We have considered the above submissions and keeping in mind the said submissions made on either side, we have carefully gone through the materials available on record.

8. The issue involved in this Writ Petition has already been decided by a Division Bench of this Court in **W.P.No.19234 of 2014**, dated **07.07.2015**, [**Union of India and others, Vs. Central Administrative Tribunal and others**], wherein it has been held as follows:-

"36. That leaves us with one last question as to what would happen if the State Level Scrutiny Committee eventually holds that the 2nd respondent does not belong to the Scheduled Tribe. We cannot shirk this question, but the answer is too obvious. The right of a person to receive pension continues until his final departure. Even after his departure, his family become entitled to Family Pension. Therefore, if the State Level Scrutiny Committee eventually cancels the Community Certificate of the 2nd respondent, the petitioner can always pass orders forfeiting the pension as well as the Family Pension.

37. The Railway Administration cannot raise a question as to how they will recover the terminal benefits that they will be now compelled to pay, as that is a very moot question. Logically, another question would also arise as to how they would recover the salary paid for the past 30 years. For both questions, there cannot be an answer in law. So long as the Rules contemplate a particular position, it is not only the 2nd respondent, but also the Railway Administration which is bound by the Rules. The interpretation given to the Rules by various Benches of this Court and of the Supreme Court, in *State of Jharkhand v. Jitendra Kumar Srivastava* are very clear. Therefore, the Tribunal did not commit any error in law warranting interference by this Court. Hence, the Writ Petition is dismissed. The petitioner-Railway Administration shall settle the terminal benefits within a period of eight weeks from the date of receipt of a copy of this order. The 3rd respondent-State Level Scrutiny Committee is directed to complete the proceedings, in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs"



9. Following the said decision, the impugned orders dated 31.03.2016 and 19.08.2016, are set aside and the Writ Petition is allowed, as prayed for. The respondents 1 and 2 are directed to disburse the terminal benefits and arrears due, with interest, to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. However, the respondents 1 and 2 are at liberty to move before the State Level Scrutiny Committee, the third respondent herein, for early completion of the proceedings pending before it with regard to the community status of the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(C)

/True copy/

Sub Assistant Registrar

To

- 1.The Circle Development Officer,  
State Bank of India,  
HR Department, Local Head Office,  
Circletop House, Post Box No.737,  
No.16, College Lane, Chennai 600 006.
- 2.The Branch Manager,  
State Bank of India,  
CT Complex, Dr.Thangaraj Salai,  
Madurai 625 020.
- 3.The Chairman,  
The State Level Scrutiny Committee,  
and Secretary to Government,  
Adi-Dravidar and Tribal Welfare Department,  
Secretariat, Chennai 600 009.

+1cc to Mr.S.Sethuraman, Advocate, SR.No:7759  
+1cc to Mr.L.Shaji Chellan, Advocate, SR.No:8514

NB  
AE/CM MSA/27.02.2017/5P/6C

**ORDER MADE IN**  
**W.P. [MD] .No.20910 of 2016**  
**13.02.2017**