



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 12505 of 2014

and

M.P(MD) No.1 of 2014

and

W.M.P.(MD) No.17471 of 2016

The General Manager,
No.6.374, Srivaikundam Coopertive
Urban Bank Ltd.,
Srivaikundam,
Tuticorin District.

.. Petitioner

Vs.

1.M.Krishnan

2.The Presiding Officer,
Labour Court,
Tirunelveli District.

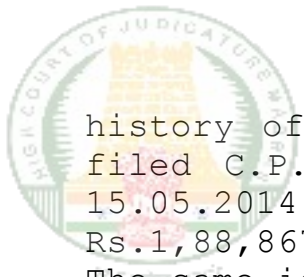
.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in C.P.No.57 of 2012 on the file of 2nd respondent dated 15.05.2014 and quash the same.

For petitioner : Mr.S.Kumar
For respondents : Mr.V.Perumal for R1
R2- Court

ORDER

The first respondent herein was employed in the writ petitioner bank as Deputy Secretary. The petitioner was alleged to have misappropriated a sum of Rs.1,00,296/-. Even in the affidavit filed in support of the writ petition, it is fairly admitted that this amount was repaid on 11.11.1988. But then, a criminal case was registered against the first respondent and after a domestic enquiry, he was terminated from service. The first respondent herein raised an Industrial Dispute, which ended in his favour. However, the award of the Labour Court was set aside in W.A(MD)No.244 of 2000 by the Hon'ble Division Bench. Thus, the termination of the first respondent from service had become final. In the meanwhile, the first respondent filed a writ petition No.81 of 1997. The bank also initiated surcharge proceedings against the first respondent. There is a chequered



history of litigation between the parties. The first respondent filed C.P.No.57 of 2012. The same was allowed by order dated 15.05.2014 and the petitioner herein was directed to pay a sum of Rs.1,88,867/- with interest at the rate of 12% from 17.08.2012. The same is assailed in this writ petition.

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2.Certain basic facts are not in dispute. The sum, said to have been misappropriated by the first respondent, had admittedly been repaid by the first respondent, that too, in the year 1988. Yet, an order of surcharge was passed against the first respondent directing him to pay a sum of Rs.33,912/-. Initially, it was directed that the first respondent shall pay the same without interest. But on a revision, at the instance of the writ petitioner, this Court directed that the first respondent will be liable to pay the said amount with interest. It is also not in dispute that the first respondent had availed loan to the tune of Rs.11,000/- and since interest got accrued, the first respondent's loan liability amounted to a sum of Rs.36,000/-. Thus, the liability of the first respondent was the surcharge amount of Rs.33,000/- together with interest and the loan amount of Rs.36,000/- together with interest. The Labour Court by the award impugned in this writ petition held that the first respondent is entitled to be paid a sum of Rs.1,88,867/- with interest at the rate of 12% from 17.08.2012. Following the direction of this Court in the earlier round of litigation, the first respondent was already paid a sum of Rs.45,000/-. But it is seen that only a sum of Rs.66,200/- is lying as bank deposit as on date. The first respondent is now aged about 77 years.

3.The learned counsel appearing for the first respondent submits that the first respondent has become financially destitute. Since the first respondent has to pay a sum of Rs.33,000/- towards surcharge proceedings and loan liability of the first respondent has already been adjusted by the writ petitioner bank, this Court permits the first respondent to withdraw a sum of Rs.33,000/- towards full and final settlement of all his claim. It is made clear that the first respondent shall not make any further claim against the writ petitioner bank in future. The writ petitioner would be entitled to withdraw the remaining sum of Rs.33,000/-. This Court expresses the hope that the litigation between the parties would attain finality with this order.

4.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)



To:
The Presiding Officer,
Labour Court,
Tirunelveli District.

+1CC TO Mr.S.Kumar, Advocate, Sr No.52618
+1CC TO Mr.V.Perumal, Advocate, Sr No.52534

ORDER MADE IN
W.P. (MD) No. 12505 of 2014
02.03.2018

skn

MS/SV-MMS/SAR-4/05.06.2018/3P.4C