



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7140 of 2017andW.M.P(MD)Nos.5641, 5642 and 18815 of 2017

D.Paul

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Department of Industrial and Commerce,
O/o District Registrar (Industrial Co-Operative)
General Manager,
District Industries Centre,
Sivagangai.

2.The Chief Manager,
State Bank of India,
Devakottai,
Sivagangai District.

3.The Branch Manager,
Tamil Nadu Industries
Co-operative Bank Ltd.,
(Taico Bank)
Karaikudi Branch,
Karaikudi.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the record relating to the impugned order passed by the 1st respondent in EP.No: 180/1C/2014-2015 dated 21.12.2016 and quash the same and consequently direct the 2nd respondent not to detect any amount in the petitioner S/B cum Pension account in S/B Account No.30326723880 and the amount already attached and detected from January 2017 to April 2017 shall be credited in my account in pursuance of the impugned order passed by the first respondent in E.P.No.180/1C/2014-2015 dated 21.12.2016.

For Petitioner : Mr.J.Mathesh

For Respondents : Mrs.S.Srimathy

Spl. Govt. Pleader for R1

Mr.Alaguram Jothi for R2

No appearance for R3

O R D E R

The writ petitioner is a retired Government servant. His pension account is with the second respondent. Since the first respondent passed the impugned order at the instance of the third respondent, the petitioner is not being paid his pension for the last 15 months. Hence, the writ petition has been filed.

2. When the matter was taken up for disposal, it was fairly admitted by the petitioner that he borrowed certain sums from the third respondent. But then according to him, the third respondent obtained ex-parte order and that the calculation of the interest also is not correct. It is made clear that it is open to the petitioner to seek to set aside the ex-parte order or to file an appeal questioning the order fixing his loan liability.

3. Since it is admitted by the petitioner that he had borrowed certain sum from the third respondent bank, this Court exercising discretion of the jurisdiction under Article 226 of the Constitution of India, would not be justified in quashing the impugned order in toto.

4. A reading of the impugned order indicates that the first respondent has directed that a sum of Rs.4,000/- be deducted from the pension of the writ petitioner, but then the second respondent appears to have frozen the pension account completely and not disbursed even a single pie towards the monthly pension of the writ petitioner. Such approach is clearly illegal and unfair.

5. Therefore, there shall be a direction to the second respondent to disburse the monthly pension payable to the petitioner after deducting a sum of Rs.4,000/-. The order impugned in this writ petition is quashed to the extent it directs the second respondent to withhold a sum of Rs.5,53,564/- payable to the writ petitioner. However, the direction for deducting a sum of Rs.4,000/- from the monthly pension of the petitioner is not interfered with. It is needless to mention that the sum deductible from the petitioner will abide by the steps to be taken by the petitioner before the appropriate authority regarding quantification of his loan liability.

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

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1. The Government of Tamil Nadu,
Department of Industrial and Commerce,
O/o District Registrar (Industrial Co-Operative)
General Manager,
District Industries Centre,
Sivagangai.

2. The Branch Manager,
Tamil Nadu Industries
Co-operative Bank Ltd.,
(Taico Bank)
Karaikudi Branch,
Karaikudi.

+1cc to M/S.J.Mathesh, Advocate SR.No. 52836
+1cc to M/S.J.Alaguram Jothi, Advocate SR.No. 53064
+1cc to Special Government Pleader, SR.No. 53362

W.P. (MD) No. 7140 of 2017
and

W.M.P (MD) Nos. 5641, 5642 and 18815 of 2017
05.03.2018

SKN

JM/SKN RSK/SAR 4/16.03.2018/3P/6C