

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.678 OF 2019

**SAHEBRAO NAMDEO AVHALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. R.D.Thorat, Advocate for the petitioner
Mrs. M.A.Deshpande, AGP for the respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 17.01.2019

P.C. :-

1. Heard learned counsel for the petitioner.
2. The petitioner is before this Court raising challenge to the communications / notices issued by the respondent No.2 State Bank of India (hereinafter referred as Bank for the sake of brevity). It is the submission of the learned counsel for the petitioner that by these communications/notices recovery is sought for from the petitioner on the alleged ground of excess payment of pension to the petitioner.
3. The learned counsel for the petitioner vehemently submitted that respondent No.2 does not vest with any such power seeking recovery granted to the petitioner under service benefits. The learned counsel for the petitioner also admits that the petitioner had approached the Civil Court by filing suit as the respondent-Bank stopped grant of pension which used to be deposited in his bank accounts. The document placed

on record at page 24 shows that the petitioner submitted withdrawal pursis before this Court. Accordingly the learned 2nd Joint Civil Judge Junior Division, Vaijapur disposed the suit as withdrawn under order dated 13.06.2018. On perusal of the material placed on record we find that under an erroneous impression the petitioner is before this Court. Though it was the submission of the learned counsel for the petitioner that the respondent No.2-Bank initiated the action, perusal of the documents make it very clear that the action was not taken by the Bank as per its choice but the respondent No.2-Bank was prompted to initiate that action in view of persistent demand by the employer of the petitioner. This position is clear by communication dated 05.10.2018 placed on record by the petitioner himself. It would not be out of place to refer to the statement in the communication dated 05.10.2018 and the same reads thus:

"The concerned Government Department is pressing hard to the Bank to make/recover the amount in lump sum from the pensioner failing, which they may be charge overdue interest on the said amount apart from other action".

4. The petitioner himself has placed on record a service certificate issued in favour of the petitioner at Exh.'C'. The perusal of this document shows that the petitioner was in service of South Central Railway demitting his services seeking voluntary retirement.

5. Considering all these facts we are of the clear opinion that the petitioner can raise this very grievance which is raised in the present petition before

the appropriate and competent forum for redressal and as the issue relates to recovery of service benefits of the petitioner, the petitioner is not prevented from approaching the administrative tribunal set up for redressal of such grievances under the specific Act.

6. With liberty to the petitioners to approach competent redressal forum for raising this grievance, the writ petition is disposed of.

[S.M.GAVHANE,J.]

[PRASANNA B. VARALE,J.]