IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.129 of 2012

1.P.S.Balakumar
2.S.R.Balaraman
3.R.Dorai Raj
4.P.Doraiswamy
5.J.Gajapathy
6.R.Ganesh
7.M.S.Vijaya Ragavan
8.P.R.Srinivasan
9.S.Rajesekaran
10.S.Sridharan
11.K.P.Vaidyanathan .. Petitioners

Vs.

1.The Presiding Officer,
Central Government
Industrial Tribunal cum Labour Court,
Chennai.

2.The Management of Standard
Chartered Bank,
Human Resource Division,
23-25, Mahatma Gandhi Road,
Fort Mumbai 400 001. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 31.08.2010 passed by the 1st respondent in C.P.No.7 of 2007, quash the same and consequently, direct the 2nd respondent to pay the petitioners the amounts as claimed by them in C.P.No.7 of 2007 with interest till the amounts are actually paid.

For Petitioners : Mr.V.Ajoy Khose
For R1 : Labour Court
For R2 : Mr.Anand Gopalan, for M/s.T.S.Gopalan and Co.

O R D E R

The present Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 31.08.2010 passed by the 1st respondent in C.P.No.7 of 2007, quash the same and consequently, direct the 2nd respondent to pay the petitioners the amounts as claimed by them in C.P.No.7 of 2007 with interest till the amounts are actually paid.

2.The petitioners were employed as Award Staff in ANZ Grindlays Bank at their Chennai office and other branches. Subsequently, the said Bank was merged with and taken over by the Standard Chartered Bank, the 2nd respondent herein. The 2nd respondent announced Voluntary Retirement Scheme in the year 1996 with effect from 01.09.1996 to be enforced up to 30.09.1996. The 2nd respondent assured that there will not be any deduction towards Income Tax from the amount payable to the Voluntary Retirement Scheme Optees, like the petitioners, on encashment of Privilege Leave up to a sum of Rs.1,35,360/-. As per this clause, the 2nd respondent did not deduct any amount towards Income Tax and credited the amount to their Savings Bank account maintained in the Bank. Subsequently, the 2nd respondent, without any notice to the petitioners debited the amounts from the Savings Bank account of the petitioners towards Income Tax on the encashment of Privilege Leave. When the petitioners protested such debits, the 2nd respondent informed the petitioners that some of the staff of Delhi Branch filed claim petitions before the Industrial Tribunal cum Labour Court, New Delhi and their claim of refund of amounts debited from their account towards Income Tax on enchashment of Privilege Leave will be considered only after disposal of the said case. The Industrial Tribunal cum Labour Court, New Delhi by the order dated 17.03.2004 allowed the claim petition filed by the staff of the Delhi Centre. The Bank filed W.P.No.8022 of 2004 before the High Court, New Delhi, challenging the order of the Labour Court. While the said Writ Petition was pending, the 2nd respondent entered into settlement with workmen and paid the amounts computed by the Labour Court. The Writ Petition was disposed of in terms of settlement. The petitioners demanded refund of the amounts deducted as Income Tax from the Leave Encashment. The 2nd respondent did not pay the amounts and hence, they filed a claim petition in C.P.No.7 of 2007 before the 1st respondent. The 2nd respondent filed counter statement, stating that the claim of the petitioners is barred by the limitation and petitioners are not entitled to any amounts due to delay and laches. The claim of the petitioners become stale and they are not entitled to any amount. The 1st respondent accepted the contention of the 2nd respondent and dismissed the claim petition. Against the said dismissal, the petitioners have come out with the present Writ Petition.

3.The learned counsel appearing for the petitioners contended that the 1^{st} respondent has not given any reason for accepting the contention of the 2^{nd} respondent and rejecting the contention of the petitioners. By one line order, the claim petition filed by the petitioners were dismissed and prayed for setting aside the order of the 1^{st} respondent and consequently, direct the 2^{nd} respondent to pay the amounts as claimed by the petitioners in C.P.No.7 of 2007 with interest.

4.The learned counsel appearing for the 2^{nd} respondent has reiterated the averments made in the counter statement filed before the 1^{st} respondent. In addition to that, the learned counsel appearing for the 2^{nd} respondent contended that all the petitioners were Income Tax Assessees and even after opting for Voluntary Retirement Scheme, they were Income Tax Assessees for certain years and the amounts deducted were paid to the Income Tax Department and certificates were issued to the petitioners and they enjoyed the benefit of the said certificates. Therefore, they cannot claim the same amount twice after the delay of 11 years and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioners as well as the 2^{nd} respondent and perused the materials available on record.

6.From the impugned order of the 1^{st} respondent, it is seen that the 1^{st} respondent has extracted all the averments made in the claim petition as well as the counter statement filed by the 2^{nd} respondent. As rightly pointed out by the learned counsel appearing for the petitioners, the 1^{st} respondent in Paragraph No.8 of the order has accepted the contention of the 2^{nd} respondent and rejected the claim of the petitioners. The 1^{st} respondent has not given any reason for such a finding. The 1^{st} respondent has not considered the contention of the petitioners that similar claim of staff of the New Delhi Centre was accepted by the Industrial Tribunal Cum Labour Court, New Delhi and that the 2^{nd} respondent settled the claim of the said staff. The Tribunal also has not considered the contentions of the 2^{nd} respondent that the claim of the petitioners were barred by limitation and petitioners are not entitled to any amounts due to the delay and laches. The Tribunal has held that claim of the petitioners are liable to be "accountable for wrong claim preferred" and claim of the petitioners are frivolous and vexatious and has not given any reason for such finding. The order of the Tribunal dismissing the claim petition filed by the petitioners is not valid as the 1st respondent has not given any reason for dismissing the claim petition and accepting the contention of the 2nd respondent. In view of the same, the impugned order of the 1st respondent dated 31.08.2010 is set aside and the claim petition filed by the petitioners is remanded back to the 1st respondent for fresh consideration. The 1st respondent is directed to consider the claim petitions afresh and pass orders on merits and in accordance with law as expeditiously as possible, uninfluenced by any observation of this Court.

7.In the result, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Presiding Officer,
Central Government
Industrial Tribunal cum Labour Court,
Chennai.

2.The Management of Standard
Chartered Bank,
Human Resource Division,
23-25, Mahatma Gandhi Road,
Fort Mumbai 400 001.

+1cc to Mr.V.Ajoy Khose , Advocate SR.No. 52038
+1cc to Mr. M/s.T.S.Gopalan and Co, Advocate SR.No. 52057

W.P.No.129 of 2012

A.SK(26/07/2019)