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W.P.(MD)Nos.24868 and 24858 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

and

THE HONOURABLE MRS.JUSTICE **R.THARANI**

W.P. (MD)Nos.24868 and 24858 of 2019

and

W.M.P. (MD)Nos.21480, 21481, 21485, 21486 of 2019

W.P. (MD)No.24868 of 2019

C.Thangavel

... Petitioner

Vs

1.The Government of India,
represented by its Joint Secretary to Government,
Ministry of Finance Department of Economic affairs,
DakBhawan, Sansad Marg, New Delhi-110 001.

2.The Senior Superintendent of Post Officers,
Virudhunagar Division, Virudhunagar - 626 001
Virudhunagar District.

3.The Post Master,
Sivakasi - 626 123,
Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring Rule 2 in Clause(d) in sub clause(ii) of Senior Citizens Saving Scheme Rules 2004 and the consequential order No.H/SCSS/DEF/DLGS DT AT SVK THE dated 28.08.2019 of the third respondent herein as illegal, unconstitutional and ultra vires in respect of petitioner alone and consequently direct the respondents 1 to 3 herein to give quarterly interest under senior citizen savings scheme to petitioner's fixed deposit accounts in the third respondent office bearing fixed deposit accounts number 3794261466 regularly to the petitioner.

W.P. (MD)No.24858 of 2019

N.Manivannan

... Petitioner

Vs

1.The Government of India,
represented by its Joint Secretary to Government,
Ministry of Finance Department of Economic affairs,
DakBhawan, Sansad Marg, New Delhi-110 001.



2.The Senior Superintendent of Post Officers,
Virudhunagar Division, Virudhunagar - 626 001.
Virudhunagar District.

3.The Sub Post Master HSG-II,
Sattur - 626 203,
Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring Rule 2 in Clause(d) in sub clause(ii) of Senior Citizens Saving Scheme Rules 2004 and the consequential order dated nil (posted on 20.09.2019) of the third respondent herein as illegal, unconstitutional and ultra vires in respect of petitioner alone and consequently direct the respondents 1 to 3 herein to give quarterly interest under senior citizen savings scheme to petitioner's fixed deposit accounts in the third respondent office bearing fixed deposit accounts number 3803362160 regularly to the petitioner.

For Petitioners : Mr.T.Pon Ramkumar

For Respondents : Ms.L.Victoria Gowri
Senior Central Government
Standing Counsel

(in both Writ Petitions)

COMMON ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

Heard, Mr.T.Pon Ramkumar, learned counsel for the petitioner and Ms.L.Victoria Gowri, learned Senior Standing Counsel who accepts notice for the respondent.

2.These writ petitions are listed before us because the main relief sought for by the petitioners is for a writ of declaration to declare the Rule 2 (c)(ii) of the Senior Citizens Savings Scheme Rules 2004. The consequential relief sought for is to quash the proceedings of the third respondent by which the deposit made by the petitioners in the post office have been foreclosed and the interest also has been denied. Had the petitioners challenged the proceedings of the third respondent dated 28.08.2019 alone, then the writ petitions would not be placed before us. Since the main relief sought for in these writ petitions is for a declaration, the matter is before the Hon'ble Division Bench of this Court.



3.After elaborately heard Mr.T.Pon Ramkumar, learned counsel for the petitioners, we find that there is nothing to indicate that it is either ultra vires in the parent statute namely the Government Savings Banks Act, 1873 nor there is any infringement of any other constitutional rights of the writ petitioners.

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4.Admittedly, the parent Act namely the Government Savings Banks Act, 1873 is a beneficial legislation, so that the deposits in Government Savings are regulated under the said Act. The present Rule namely Senior Citizens Savings Scheme Rules, 2004 was enacted and by efflux of time it has deemed to have valid Rules. As its validity has not been questioned all these years, on the grounds raised, we find nothing to declare the Rule as either unconstitutional or arbitrary. That apart, the Rule has been framed to govern deposits. Under a scheme involved by the Government, there is no compulsion on the part of the petitioners to avail the scheme and if the person avails the benefit of the scheme then it goes without saying that the petitioners shall abide by the Rules.

5.Thus, in our opinion, it cannot be a ground to declare the Rule as null and void. On the above reasons, we reject the prayer for declaring Rule 2(d)(ii) of the Senior Citizens Savings Scheme Rules, 2004 as unconstitutional and ultra vires. With regard to the consequential relief, it is a separate cause of action. If the petitioners would state that for the period during which the deposit was made, he should be paid interest, this has to be adjudicated before the appropriate Forum in an appropriate proceedings.

6.For the above reasons, the writ petitions are partly dismissed by rejecting the prayer for declaring the Rule 2(d)(ii) of the Senior Citizens Savings Scheme Rules, 2004 and consequently, the validity of that rule. With regard to the consequential relief we give liberty to the petitioners to question the same in a separate proceedings before the appropriate Forum. For such reasons, we direct the Registry to return the original impugned orders.

7.Accordingly, these writ petitions are partly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Joint Secretary to Government,
Government of India,
Ministry of Finance Department of Economic affairs,
DakBhawan, Sansad Marg, New Delhi-110 001.

2.The Senior Superintendent of Post Officers,
Virudhunagar Division, Virudhunagar - 626 001.

3.The Post Master,
Sivakasi - 626 123,
Virudhunagar District.

4.The Sub Post Master HSG-II,
Sattur - 626 203,
Virudhunagar District.

+1cc to Ms.L.Victoria Gowri, Advocate Sr.No.101083

+1cc to Mr.T.Pon Ramkumar , Advocate Sr.No.100955

W.P. (MD) Nos.24868 and 24858 of 2019

and

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VB (13.12.2019) 4P 7C