

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.2206 of 2020

S.Venkatesh

...Petitioner

-Vs-

The Managing Director,
Chennai Central Co-operative Bank,
215, Pragasam Salai,
Chennai 600 108

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to refund the amount of Rs.14,790/- recovered by way of surcharge from the petitioner together with appropriate interest thereon.

For Petitioner : Mr.C.S.Kiran
For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

ORDER

This writ petition has been filed for the issue of writ of Mandamus, directing the respondent bank to refund the amount of Rs.14,790/- recovered from the petitioner, by way of surcharge with appropriate interest, till the date of settlement.

2. The case of the petitioner is that he was working as an Assistant in the respondent bank. In the year 2000, the disciplinary proceedings were initiated against the petitioner on the ground of alleged irregularities. On enquiry, it was found that a sum of Rs.2,02,500/- was misappropriated and therefore, enquiry officer in his report had recommended for the recovery of a sum of Rs.1,80,500/- from the staff. A criminal case also came to be filed in this regard and it is now pending at the stage of trial.

3. As against the surcharge proceedings, the petitioner filed an appeal before the Co-operative Tribunal, Chennai. An

order came to be passed on 19.01.2007, by allowing the Appeal filed by the petitioner. The respondent bank filed a writ petition before this Court in WP No.14769 of 2007 against the order of the Co-operative Tribunal and the same came to be dismissed by this Court by an order dated 18.07.2011. This order has become final and therefore, the petitioner is now claiming for the refund of the amount that was recovered from the petitioner during the surcharge proceedings. The petitioner has made representations to the respondent bank seeking for refund and it was not considered. Therefore, the petitioner is seeking for refund of the amount with interest.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. It is clear from the records that the amount was recovered from the petitioner during the surcharge proceedings which was set aside by the Tribunal and was further confirmed by this Court in the Writ petition that was filed by the respondent bank. In view of the same, the respondent bank is bound to refund the amount to the petitioner. In the earlier case, this Court had directed the amount to be refunded with the accrued interest, since the amount was already lying in deposit. However, in the present case, the learned Special Government Pleader submitted that the amount has not been deposited in any account.

6. In view of the above discussion, the petitioner is entitled for refund of the amount that was recovered from him, during the surcharge proceedings. The petitioner will also be entitled for interest. In the considered view of this Court, taking into consideration the fact that the respondent is a Co-operative bank and the bank itself is paying interest at the rate of 6.75% on the Fixed Deposits, same rate of interest can be fixed in the present case also.

7. This writ petition is allowed and the respondent bank is directed to refund the entire amount recovered from the petitioner along with interest at the rate of 6.75% from the date of recovery till the date of actual payment. This process shall be completed within a period of six weeks from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

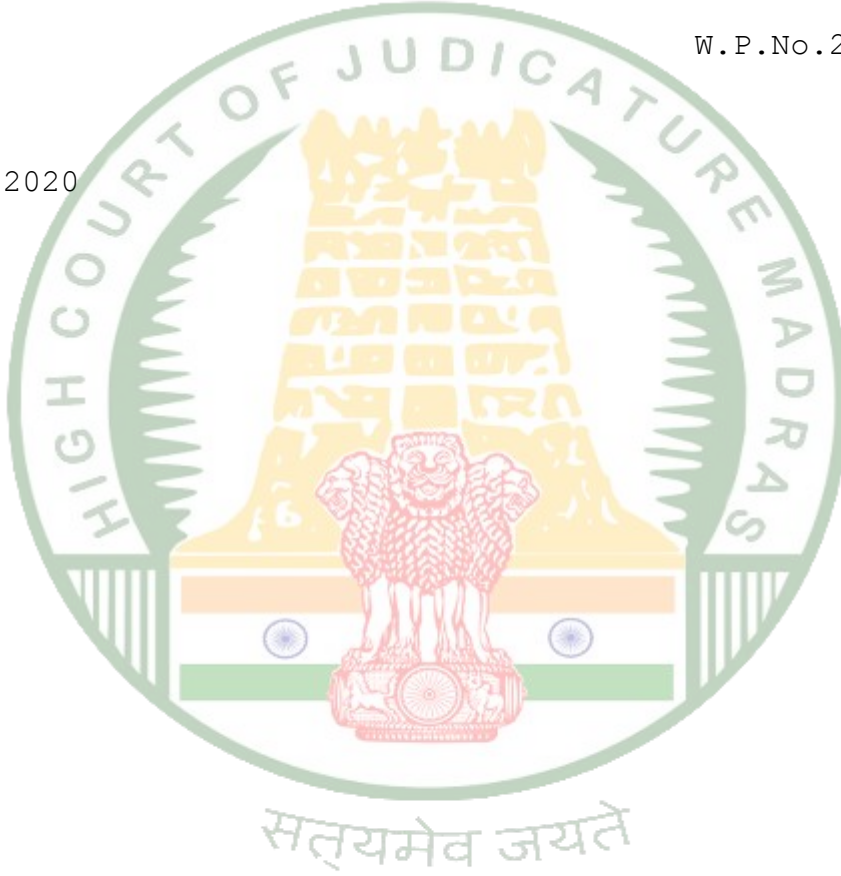
The Managing Director,
Chennai Central Co-operative Bank,
215, Pragasam Salai,
Chennai 600 108

+1cc to Mr.C.S.Kiran, Advocate, S.R.No.9868

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate, S.R.No.10471

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PM(CO)
KKV/29/07/2020



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