

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :23.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.19880 of 2014

P.Soundararajan

..Petitioner

- Vs -

1. The Managing Director,
The Tamil Nadu State Apex Cooperative Bank Ltd,
233, N.S.C.Bose Road,
Chennai 600 001.
2. The Tamil Nadu State Apex Cooperative Bank Ltd,
Rep. By its President,
233, N.S.C.Bose Road,
Chennai 600 001.
3. The Deputy General Manager (HRD)
The Tamil Nadu State Apex Cooperative Bank Ltd,
233, N.S.C.Bose Road,
Chennai 600 001.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records relating to the proceedings in C.No.12296/HRD/2012-13 dated 02.02.2013 made by the 3rd respondent herein and quash the same and consequently direct the respondents herein to release and pay a sum of Rs. 2,84,000/- with interest at 15 percent per annum within a reasonable time to be fixed by this Court to the petitioner.

For Petitioner : M/S.T.Dhanyakumar

For Respondents : Mr.L.P.Shanmugasundaram,
Spl.G.P (Co-op)

ORDER

This Writ petition has been filed by the petitioner, to call for the records relating to the proceedings in C.No.12296/HRD/2012-13 dated 02.02.2013 made by the 3rd respondent herein and quash the same and consequently direct the respondents herein to release and pay a sum of Rs. 2,84,000/- with interest at 15 percent annum within a reasonable time to be fixed by this Court to the petitioner.

2.The case of the petitioner is that the petitioner was appointed in the Respondent Bank as Assistant in the year 1980 and thereafter retired from the respondent Bank on 31.01.2013 as Chief Manager. Immediately after his retirement, the respondent bank has settled all his dues except a sum of Rs.2,84,000/- towards the gratuity amount. This Gratuity amount was withheld in lieu of overdues in 14 salary loans sanctioned by him at Adambakkam West Branch. While in service, the 3rd respondent herein by his proceedings dated 02.02.213 withheld the said sum of Rs. 2,84,000/-. Therefore the petitioner made a representation to the 1st respondent on 07.4.2014, setting out all the facts and also the law governing the payment of gratuity to the employees and also sought his intervention to pass orders to release the withheld gratuity amount as per the provisions of the Payment of Gratuity Act 1972 (39 of 1972) without any further delay. Since there was no response, he made another representation on 30.06.2014 to the 1st respondent. However, till filing the writ petition, there was no action which necessitated in filing the present writ petition.

3.Learned counsel appearing for the petitioner submitted that the loan was sanctioned by the petitioner to 14 teachers who are working in the different school in the year 2013. Even after retirement, the petitioner had taken steps to collect several payments related to the overdue amounts and deposited the same with the bank and a sum of Rs. 1,75,000/- is yet to be paid towards the loan accounts. However, amounts were recovered from the respective teachers. During the pendency of the writ petition, subject to the collection of the amount by the respondent bank, the petitioner was settled a sum of Rs. 1,03,772 and a sum of Rs. 1,80,228/- is not settled till date. Hence, this Court may issue a direction to the respondents to settle the balance amount of Rs. 1,80,228/- with statutory interest within a reasonable time fixed by this Court.

4.Today, the 3rd respondent, viz.,K.S.Mohammed Kassah, AGM, TNSC Bank Ltd., Chennai-1, has appeared before this Court.

5.Learned Special Government Pleader appearing for the respondents, on instructions submits that pursuant to the notice ordered, he tried to contact the Managing Director of the respondent Bank, but in vain as the Managing Director was not available in station. However, he assures that the petitioner's case will be considered and all the eligible amounts if any, will be settled within a period of 12 weeks.

6. It is settled principle of law that the gratuity payable to the petitioner cannot be withheld by the employer except insofar as the reasons specified in sub Sections 6(a) and (b) of

Section 4 of the Payment of Gratuity Act and the respondents are also not entitled to withhold the amount even on the ground of pendency of enquiry or for any other reasons, therefore, the respondent have not power to withhold the gratuity amount. Further it is also pertinent to state that under Sec 7(3) of the Act the employer shall arrange to pay the amount of Gratuity within 30 days from the date it becomes payable. Under sub-section (3) (a) to Section 7 if the amount is not paid by the employer within the period specified, simple interest at such rate, not exceeding the rate notified by the Government from time to time for repayment of long term deposits ought to be paid. In view of the above legal position, I am inclined to issue a direction to the respondents to settle the balance amount of Rs. 1,80,228/- with statutory interest from the date of due till realization to the petitioner within a period of 12 weeks from the date of receipt of copy of this order.

7. With the above observation and direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

jrs
To

Sub Assistant Registrar

1. The Managing Director,
The Tamil Nadu State Apex Cooperative Bank Ltd,
233, N.S.C.Bose Road,
Chennai 600 001.
2. The Tamil Nadu State Apex Cooperative Bank Ltd,
Rep. By its President,
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3. The Deputy General Manager (HRD)
The Tamil Nadu State Apex Cooperative Bank Ltd,
233, N.S.C.Bose Road, Chennai 600 001.

+1cc to Mr.T.Dhanyakumar, Advocate, S.R.No.42864

W.P. NO.19880/2014

gpl (CO)
rv(19/01/2021)