



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.18120 of 2017

D.Sarojini

... Petitioner

vs.

1.The Chairman,
Pandyan Grama Bank,
Having Adminstrative Office at
No.2-70-1, Collectorate Complex,
Virudhunagar-626 002.

2.The General Manager,
Pandyan Grama Bank,
No.2-70-1, Collectorate Complex,
Virudhunagar-626 002.

3.The Branch Manager,
Pandyan Grama Bank,
Marthandam Branch,
Srivenkatesapuram,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified mandamus, to call for the records pertaining to the impugned Charge Memo (Charge sheet) issued by the first respondent in AIVD/928/13-14, dated 29.10.2013, quash the same and consequently direct the respondents to settle the arrears of salary from 12.05.2009 to 31.10.2013 and disburse the retirement benefits and the family pension of the petitioner's deceased husband Late M.Donald Edward Samuel, within the time frame fixed by this Court.

For Petitioner : Mr.C.Masilamani

For R-2 : Mr.N.Dilipkumar



O R D E R

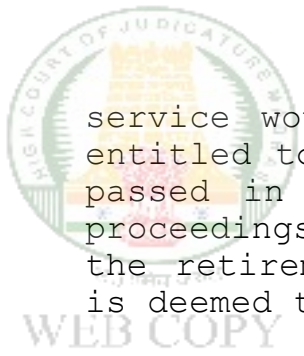
The petitioner's husband was inducted in the respondents Bank in the year 2009 and while in service, he had expired on 02.08.2014. During his service, the petitioner's husband was implicated in a criminal case in FIR No.SPE:CBI:ACE:2009 RC MA1 2009 A0040 for the offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, which culminated into C.C.No.3 of 2011 on the file of the II Additional District Judge for CBI cases, Madurai. Thereafter, on 29.10.2013, the departmental proceedings was initiated, by issuing a charge memo. The petitioner's husband was due to retire on 31.10.2013. However by letter dated 30.10.2013, the respondents had informed the petitioner's husband that in view of the pending of the disciplinary proceedings, his service would cease from 31.10.2013 onwards and that he would be entitled to the payment of retirement benefits only after the disciplinary proceedings are concluded and final order is passed. In these circumstances, the petitioner's husband had died on 02.08.2014, when the disciplinary proceedings was still pending. The petitioner herein who is the widow of the employee had given representations on various occasion seeking for settlement of the arrears of her husband's salary as well as for disbursement of the retirement benefits to which there was no proper explanation and hence, the present writ petition has been filed challenging the charge sheet dated 29.10.2013 framed against the petitioner's husband by the respondents bank.

2.The learned counsel for the petitioner would submit that in view of the death of the husband of the petitioner, the criminal proceedings as well as the disciplinary proceedings has abated and therefore, the respondents are bound to disburse the arrears of salaries as well as the retirement benefits to the legal heirs of the employee.

3.The learned Counsel appearing for the second respondent on the other hand would submit that owing to the conduct of the petitioner's husband, monetary loss has occurred to the respondents bank and therefore they are entitled to recover the loss from the estate of the legal heirs of the deceased employee.

4.When the petitioner's husband had died during the pendency of the criminal proceedings as well as the disciplinary proceedings, the entire proceedings gets abated and this position of law cannot be disputed. As a matter of fact, the criminal proceedings initiated against the petitioner's husband came to be closed, as abated, on 14.08.2014.

5.When the petitioner's husband was about to reach the age of superannuation pending the disciplinary proceedings, the respondents had also informed him through letter dated 30.10.2013 that his



service would cease from 31.10.2013 onwards and that he would be entitled to the payment of retirement benefits after final order is passed in the disciplinary proceedings. When the disciplinary proceedings itself had abated, the legal heirs would be entitled for the retirement benefits, since the disciplinary proceedings itself is deemed to have come to an end.

6. When there is no final determination of liability on the part of the deceased employee insofar as the alleged financial loss to the bank is concerned, I am not in agreement with the submission of the learned counsel for the second respondent that they would be entitled to recover the alleged loss to the Bank from the estate of the legal heirs of the deceased employee, for the simple reason that there is no provision under the respondents Bank regulation enabling them to proceed against the estate of the deceased employee for recovering any loss, in the absence of having such a loss being determined through their proceedings.

7. When the disciplinary action itself as abated and there was no proceedings determining that some loss has occurred to the bank owing to the lapses on the part of the petitioner's husband, this Court is unable to apprehend as to how the respondents Bank could either quantify the loss that had occurred to the Bank or fix the liability and in the absence of any regulation enabling the Bank to recover such unquantified loss from the estate of the legal heirs of the deceased, the action on the part of the respondents to recover the loss, would be illegal. As such, the legal heirs of the late employee would be entitled for all monetary benefits as on the date of the death of the petitioner's husband.

8. In the light of the above observations, the impugned charge sheet issued by the first respondent in AIVD/928/13-14, dated 29.10.2013 stands quashed as abated. Consequently, there shall be a direction to the respondents herein to settle all the monetary benefits that had accrued in favour of the deceased employee, including the retirement benefits to the legal heirs of the Late employee namely Late M. Donald Edward Samuel, atleast within a period of twelve (12) weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly.

9. The prayer in the present writ petition also includes for disbursement of pensionary benefits to the petitioner's husband. Incidentally, the petitioner has also filed another writ petition in W.P(MD) No. 26167 of 2019 seeking for pensionary benefits wherein the respondents have filed a counter stating that the petitioner's husband would not be entitled for pensionary benefits. This aspect has been denied by the petitioner stating that they would be entitled for pensionary benefits. Since the issue as to whether the petitioner's husband would be entitled any pensionary relief, requires deliberation in the other writ petition, it would not be appropriate to consider the prayer for pensionary benefits in the



present writ petition. It is open to both the parties to deliberate on the same in W.P(MD) No. 26167 of 2019. No costs.

Sd/-

Assistant Registrar (Records)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

To:-

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Pandyan Grama Bank,
Having Adminstrative Office at
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3.The Branch Manager,
Pandyan Grama Bank,
Marthandam Branch,
Srivenkatesapuram,
Kanyakumari District.

+1 CC to M/s.C.MASILAMANI, Advocate (SR-2233[F] dated 21/01/2020)

W.P. (MD) No.18120 of 2017
21.01.2020

JMN(14.02.2020) 4P : 5C