



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2020

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THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

W.P. (MD) No.23938 of 2017

M.Raja

... Petitioner

Vs.

The Branch Manager,
State Bank of India
Vangal Branch
Karur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent herein to consider the petitioner's representation dated 09.06.2016 to disburse the term deposit of Rs.50,000/- covered by Receipt Nos.707344 dated 26.07.1999, 707368 dated 27.10.1999 and 707374 dated 03.11.1999 together with interest due thereon till date of repayment of within a reasonable time as may fixed by this Court.

For Petitioner : Mr.V.P.Raman,
for M/S.P.Mahendran.

For Respondent : Mr.S.Sethuraman

ORDER

This Writ Petition has been filed to direct the respondent herein to consider the petitioner's representation dated 09.06.2016 to disburse the term deposit of Rs.50,000/- covered by Receipt Nos.707344 dated 26.07.1999, 707368 dated 27.10.1999 and 707374 dated 03.11.1999 together with interest due thereon till date of repayment.

2.The brief facts that are necessary to dispose of this writ petition are as follows:

The petitioner is working in the respondent Bank as a Clerk. It is admitted that he deposited a sum of Rs.50,000/- by way of term deposit in the year 1999, on three deposit receipts. The petitioner was transferred to Kulithalai Branch. Later on 03.03.2002, he was placed under suspension pending disciplinary proceedings. Charge against the petitioner is that he processed the loan application for sugar cane loan and agricultural loan and there were irregularities in the disbursement and sanction of loan and due to the same, the



Bank had suffered a loss to the tune of Rs.7,22,000/-. It is admitted that a criminal case was registered against the Branch Manager including petitioner. Disciplinary proceedings was also simultaneously initiated and it is admitted that the petitioner was dismissed from service by an order dated 27.02.2015. The order of termination was challenged by the petitioner before this Court in W.P.(MD)No.21275 of 2014. This Court by an order dated 04.06.2018, allowed the writ petition by permitting the petitioner to go on voluntary retirement with effect from 04.06.2018. The petitioner also agreed to forgo 75% back-wages. A direction was also issued to the respondent Bank to pay the subsistence allowance payable to the petitioner upto date of dismissal.

3.Though the terms of the order indicates that the order was by consent, the order of the learned Single Judge was challenged by the Bank before the Division Bench of this Court. A Division Bench of this Court, in W.A.(MD)No.1247 of 2018, modified the order of the learned Single Judge to the effect that the petitioner should forgo 100% of the back-wages. Thereafter, the matter was taken before the Hon'ble Supreme Court by the Bank and the Special Leave Petition was dismissed with an observation that the petitioner shall not raise any claim regarding subsistence allowance.

4.In this back-ground, the learned counsel appearing for the petitioner submitted that the respondent is not justified in holding the deposit.

5.A counter affidavit has been filed by the respondent stating that the petitioner caused loss to the tune of Rs.7.22 lacks to the Bank, in the course of his service as an Assistant. It is further stated that a complaint was lodged against the petitioner and 2 other officers of the Bank for forgery and other major offences and that the criminal case is pending against the petitioner. Stating that the petitioner caused loss to the Bank and citing the pendency of criminal case, the Bank has serious objection to return the deposit. The stand taken by the Bank is that the respondent is entitled to withhold the deposit till the criminal case is over.

6.The learned counsel appearing for the respondent relied upon a letter dated 15.09.2002, which was said to have been given by the petitioner to the Branch Manager of the Bank, undertaking to pay the outstanding in respect of 47 loan accounts out of his own resources and close all the loan accounts, within a period of six months. It is also stated in the letter that the petitioner authorized the Bank to appropriate the various term deposits/Special term deposits held in his name and one Mr.Sivagnanam for adjusting towards the amount due from 47 loan accounts.

7.The learned counsel for the petitioner, however, stated that the above said letter was given under compulsion and that it cannot

be cited as a reason to withhold the amount.

8.The above said letter was given in the year 2002, when no criminal case was pending. By this letter, this Court is unable to find that the petitioner is liable for the entire loss as alleged by the Bank on account of certain illegalities occurred when the loan was sanctioned to various persons. The said letter was referred to in the criminal case as well as in the disciplinary proceedings as against the petitioner.

9.No estoppel can be pleaded by the respondent on the basis of letter dated 15.09.2002. It is also admitted before this Court that the same letter was produced before this Court in the earlier round of litigation.

10.Having regard to the admitted facts that several officers have been charged in relation to the alleged loss caused to the Bank on account of illegalities committed in disbursement of the several loans and the disciplinary proceedings came to an end, there is no possibility of tracing any lawful source for recovery of amount from the petitioner. Pendency of criminal case is not a legitimate source for the Bank to get back any amount. If the petitioner is found guilty of offence, in the criminal case the petitioner can at best be punished.

11.In view of the above, this Court is unable to justify the plea for withholding the amount deposited in the Bank. Hence, this Court do not justify the Bank keeping the amount on account of the pendency of criminal case. Hence, writ petition is allowed. Having regard to the stand taken by the respondent, this Court is inclined to modify the relief. Accordingly, the respondent is directed to disburse the term deposit Rs.50,000/- together with interest, within a period of six weeks from the date of receipt of a copy of this order. however, liberty is given to the Bank to initiate any other proceedings before Civil Court, if it is permissible in law either on the basis of letter or any undertaking making the petitioner personally liable. No costs.

Sd/-

Assistant Registrar(Writs)

// True Copy //

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Sub Assistant Registrar(CS)

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To

The Branch Manager,
State Bank of India
Vangal Branch
Karur District.

+1 CC to M/s.S.SETHURAMAN, Advocate (SR-517[F] dated 07/01/2020)

W.P. (MD) No.23938 of 2017
07.01.2020

AVS (CO)
TR (13.02.2020) 4P 3C