IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.969 of 2020 and
W.M.P. No.1186 of 2020

P.Navarathan Singh Lodha .. Petitioner

Vs.

1.The Senior Superintendent of Post Offices
Chennai City South Division
T.Nagar, Chennai - 600 0017

2.The Post Master
Saidapet Post Office
Chennai - 600 015 .. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the impugned letter No.SB/CPT-PPF/dlgs at Chennai-17 dated 4.11.2019 and quash the same as arbitrary and illegal and consequently direct the respondents to release the lawful interest that is payable to the petitioner.

For Petitioner : Mr.N.Senthilkumar

For Respondents : Mr.T.V.Krishnamachari
Senior Panel Counsel

ORDER

The petitioner has sought for a Writ of Certiorarified Mandamus, to call for the impugned letter of the first respondent dated 4.11.2019 made in No.SB/CPT-PPF/dlgs and quash the same as arbitrary and illegal and consequently for a direction to the respondents to release the lawful interest that is payable to the petitioner.

2. The case of the petitioner is that, he had opened a Public Provident Fund Account in Saidapet Post Office, namely the second respondent herein bearing A/c No.0644727291 and had been regularly depositing the amounts into the said account from march 2010. The account is shown as HUF account. It is his further submission that he had deposited more than Rs.7.00

Lakhs since 2010 and the accrued interest was nearly Rs.3.00 Lakhs. He further states that his account was closed by the 2nd respondent stating irregular account opening.

3. It is the further case of the petitioner that he was informed that since the account was opened as HUF, no account can be opened in that manner and so the account is not eligible for interest. Therefore, on 24.07.2018, the second respondent deducted a sum of Rs.2,66,888/- as excess interest paid and indicated that the amount payable would be only the principal amount of Rs.7,50,000/-.

4. It is the further contention of the petitioner that he has opened the account for his safety and also for the interest that it would earn. However after depositing the same for so many years, which the respondents had been accepting and also crediting interest, the respondents, all of a sudden directed him to close the account and also reversed the interest entry which is not only against the rule of promissory estoppels but also undue enrichment. Hence the petitioner has made representations dated 15.4.2019 and 18.7.2019 to the respondents and requested them to release the lawful interest that is payable to him. In response to the same, the first respondent replied vide his letter dated 4.11.2019 stating that his account has been closed as per SB Order No.7/2005 dated 16.05.2005 and further stated that since the petitioner had agreed to abide by the rules of the Central Government as may be applicable, he is not eligible for any interest. Admittedly, there was no notice was given to him or it was not brought to his knowledge at any point of time regarding reversal of the interest or about the SB Order No.7/2005. Hence the petitioner has filed the instant writ petition.

5. Heard both sides and perused the materials available on record.

6. Along with the counter, the respondents have produced SB Order No.7/2005 dated 16.05.2005, clause 1 of which, reads as follows:

> " The Government has amended the Government Savings Bank Act, 1873 and the Government Savings Certificate Act, 1959 through the Finance Act, 2005. As per the amendment, only individuals can invest in various small savings schemes. Juridical persons including trust, HUF, Provident Funds etc. will henceforth not be eligible to invest in any of the Small Savings Scheme. Necessary amendments to the Rules of various small savings scheme, including Public Provident Fund Scheme, have been made to effect the same and the said amendment would come into effect from 13.05.2005."

7. Based on the same, the learned counsel for the respondents submitted that the petitioner is not entitled for any interest, as Provident Fund Account is not permissible for opening or investing in a Savings Bank Scheme.

8. This court's attention was also invited to the compilation of Post Office Savings Bank Manual, wherein "Rule 30 - Accounts opened in contravention of Rules", states that if an account is opened in contravention of the P.O.S.B. General Rules, 1981, the account should be closed under the orders of the Head Postmaster. No further transaction should be allowed in it. If any annual interest has been credited in the account, it should be adjusted at the time of closure of the account through the register of rectification of interest and a remark of adjustment made in the ledger card. A written notice in the prescribed form should be sent to the depositor indicating the irregular opening with a request to close the account and take the withdrawal payment personally or through an agent. If the depositor does not comply with the request, the account may be closed and the amount may be remitted by Cheque/MO deducting the usual money order commission from the amount of credit.

9. Learned counsel for the respondents, also invited the attention of this court to Chapter - 5 of the said rules, which deals with Public Provident Fund Accounts. Rule 152 of the said rules provides for Salient features of the scheme. Clause (iv) of Rule 152, reads thus:

> (iv) An individual who is a member of a Hindu Undivided Family cannot subscribe to the fund on behalf and out of the income of the Hindu Undivided Family.

In view of the above rules, it was contended that the petitioner should not have opened an account in the post office.

10. It is beyond one's apprehension as to how such arguments can be made by the respondents when the amendments and circulars are within their knowledge and they have allowed the petitioner to open an account. The amended circular was on 16.05.2005 and the petitioner had opened the account in the year 2010. If the rule prohibited a Savings Bank Account being opened for any juridical persons like trust, HUF, etc. they should not have opened the account at all and rejected the application. Having allowed the account to be opened and allowed the benefits of the scheme, it is not open to the respondents, to deprive the interest accrued in the account.

11. The next argument of the learned counsel for the respondents is that the petitioner had accepted the closure of the account is also to be rejected, because the same was

closed only as an irregular account opening. It is for the officials to inform the customer who comes to their institution for opening an account about the available schemes. In the account opening form there is a clause which says that "I/we agreed to abide by such rules framed by the Central Government as may be applicable to the account from time to time."

12. The said agreement signed by the petitioner cannot be taken advantage of, as, such declaration is only for the prospective amendments and not for retrospective circulars.

13. In a similar circumstances, this court also in R.Velayudham vs. The Chief Postmaster General and others reported in 2014 SCC Online Mad 6481, at paragraph Nos.8 and 9, it has been held as follows:

> " 8. From the averments made in the counter affidavit, it is seen that the extension of the deposit has been admitted and the interest credited has also been admitted. Now, the respondents seek to deny payment of interest by referring to Rule 17 of the said rules. The respondents did not on their own volition take any action, but the actions appears to have been taken pursuant to the dudit inspection conducted in January - February 2012. Therefore, until such time, the account was in operation and deposits were accepted and interest was periodically credited. From the documents filed in the typed set of papers, more particularly the copy of the passbook, it is evidently clear that the respondents have been credited interest. In such circumstances, to deny payment of interest to the petitioner on the deposits, which was in the hands of the respondents, by referring to a ride and an audit report is arbitrary.
>
> 9. Admittedly, the account was not directed to be closed in 2006. The request made by the petitioner for extension was accepted and the account was valid and operational till October 2012, when it was ordered to be closed. Therefore, the money having been remained in deposit by the respondents is bound to be repaid along with interest. For no fault committed by the petitioner, he should not be penalised, more prticularly a senior citizen, who has invested his hard earned money in the public provided fund account, which is in fact as HUF account of the petitioner. Furthermore, based on the audit report submitted during October, 2012, interest, which has been

> credited to the petitioner's account cannot be retrospectively annulled. Therefore, the respondents are bound to pay interest for the amount retained by them all along. For all the above reasons, the petitioner is entitled to succeed."

14. In the counter affidavit filed by the respondents, it has been admitted by the respondents in paragraph 5 that, as on the date of closure of the account on 24.07.2018, the accumulated amount deposited on various dates in the account was Rs.7,50,000/- and the interest accrued was Rs.2,66,888/-.

15. In view of the admission made by the respondents regarding the accumulated amount and the interest accrued thereon and following the decision of this court cited supra, the writ petition is allowed. The respondents are directed to return the interest amount of Rs.2,66,888/- to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Asr
To

1.The Senior Superintendent of Post Offices
Chennai City South Division
T.Nagar, Chennai - 600 0017

2.The Post Master
Saidapet Post Office
Chennai - 600 015

+1cc to Mr.N.Senthil Kumar , Advocate SR.No. 26141
+2ccs to Mr.T.V.Krishnamachari, Advocate SR.No. 26183

W.P.No.969 of 2020 and
W.M.P. No.1186 of 2020

PVS(CO)
A.SK(06.07.2021)