



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.12.2021
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.4092 of 2013

and

M.P. (MD)No.1 of 2013

WEB COPY

The Management/Special Officer,
Dindigul Urban Co-operative Bank,
No.2, Pudu Pensioner Street,
Dindigul Post, Dindigul District.

... Petitioner

vs

1. The Presiding Officer,
Labour Court, District Court Campus,
Trichy Post and District.

2. P.Ganapathy, (Died)
3. G.Balarathinam
4. K.Vigneswari
5. G.Vigneswaran
6. G.Balamurugan

... Respondents

*(R3 to R6 are impleaded, vide Court order,
dated 03.12.2021 in W.M.P. (MD)No.18160 of 2021
in W.P. (MD)No.4092 of 2013 by SSYJ)*

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified, to call for the records pursuant to the impugned orders passed by the first respondent in C.P.No.126 of 2008, dated 05.10.2012 and quash the same.

For Petitioner : Mr.C.G.Pethanaraj

For R-1 : Labour Court

For R-2 : Mr.K.R.Laxman

O R D E R

The petitioner bank has filed this writ petition against the order passed by the Claim Petition in C.P.No.126 of 2008.

2. The second respondent was working as Manager in the petitioner Bank, during the tenure of service the petitioner has committed grave irregularities and violated the rules while issuing



the loan and recovery of the loan amount. Thereafter, under Section 81 of T.N.C.S. Act 1983, an enquiry was conducted. Thereafter, surcharge proceedings was initiated against the petitioner and it is submitted that the surcharge proceedings is still pending. The second respondent has availed some loans from the petitioner Bank and the same was recovered from the second respondent. After recovery of all those amounts, the petitioner Bank ought to pay the balance amount of Rs.2,48,098/- (Rupees Two Lakh Forty Eight Thousand and Ninety Eight only) to the second respondent.

3. The second respondent has filed a claim petition before the first respondent, directing the Management to pay EPF contributions and Earn Leave Salary under Section 33(c)(2) of Industrial Dispute Act 1947. The petitioner contested the case and thereafter, the Labour Court has passed an order, dated 05.10.2012 and allowed the claim petition, directing the petitioner to pay a sum of Rs.4,74,451/- (Rupees Four Lakh Seventy Four Thousand Four Hundred and Fifty One only) with the interest at rate of 10% from the date 21.05.2008 till the date of realization.

4. The claim of the petitioner Bank is that as per by-law the second respondent is eligible for Earn Leave Salary for 180 days alone and not for 240 days. The second claim put forth by the petitioner bank is that the Labour Court has stated that the second respondent is eligible for 9% interest but in the final portion of an order, it is stated that 10% of interest is payable. Aggrieved by the rate of interest the present petition is filed.

5. The second respondent has not filed any counter affidavit but narrated the contents stated in the petition filed before the Labour Court.

6. Heard Mr.C.G.Pethanaraj, learned Counsel appearing for the petitioner and Mr.K.R.Laxman, learned Counsel appearing for the second respondent.

7. It is seen from the records that enquiry under Section 81 of T.N.C.S. Act 1983 was conducted and initiated surcharge proceedings against the errred employees to recover the loss amount. The 2nd respondent has availed the various type of loan from the bank and employees society during his service and the same was recovered from him on various heads. After recovery the balance amount of Rs.2,48,098/- is payable. However, the Labour Court has directed to pay Rs.4,74,451/- together with interest at the rate of 10% from the date 21.05.2008 till realization.

8. It is stated that still surcharge proceedings is pending and this Court is not inclined to express any view in the surcharge proceedings. As far as the calculation of earned leave, when the by-law prescribes the benefit is applicable for 180 days then that is alone applicable and not for 240 days. Based on the by-law all the



employees are paid for 180 days and 2nd respondent cannot claim beyond the by-law. Therefore this Court is of the considered opinion that the petitioner is entitled to earned leave for 180 days alone.

9. As far as the interest portion is concerned, the same is modified to 6%, which is the prevailing bank rate. Therefore, the petitioner Bank is directed to pay recalculated amount with 6% interest.

10. Hence, the Writ Petition is allowed on above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Presiding Officer,
Labour Court, District Court Campus,
Trichy Post and District.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-38253[F] dated 10/12/2021)

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-38443[F] dated 13/12/2021)

W.P. (MD)No.4092 of 2013

10.12.2021

MGJ(21.01.2022) 3P 4C