



WEB COPY



W.P.No.2671 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.2671 of 2015

and

M.P.No.2 of 2015

P.Arumugam

... Petitioner

Vs.

The Chief Manager,
HRM Department,
Indian Bank,
Corporate Office,
254-60, Avvai Shanmugam Salai,
Royapettah, Chennai – 600 014.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned Form-M notice Ref.No.CO/HRM/SETT dated 06.03.2014 and quash the same and directing the respondent to sanction the Gratuity with interest to the petitioner in accordance with law.

For Petitioner : Mr.V.V.Sai Ram

For Respondent : Mrs. Rita Chandrasekar
For M/s. Aiyar and Dolia



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ORDER

The Form-M notice dated 06.03.2014 is sought to be quashed in the present writ petition.

2. The writ petitioner was holding the post of Manager in the Indian Bank / respondent. The management issued a charge memo in the year 2010. An enquiry was conducted and accepting the enquiry report, the Disciplinary Authority imposed the punishment of dismissal from service on 08.11.2010. The said punishment was confirmed by the Appellate Authority in proceedings dated 07.07.2011. The petitioner filed a Revision Petition before the Competent Authority and the said petition was allowed by the Authority and punishment of dismissal from service was modified as compulsory retirement in order dated 19.10.2011.

3. The grievance of the writ petitioner is that the impugned Form-M notice was issued, forfeiting the gratuity amount due to be paid to the writ petitioner.

4. The learned counsel for the petitioner made a submission that the punishment of dismissal from service was modified as compulsory retirement and therefore, the petitioner is eligible for gratuity.



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5. The learned counsel for the respondent objected the said contention by stating that in the case of the writ petitioner, the compulsory retirement was imposed by way of punishment based on the proved charges. When the compulsory retirement is a punishment, the petitioner is not eligible for gratuity as per the Service Rules in force. The said position has been stated in paragraph of 6 of the counter affidavit filed by the respondent:

“6. I state that the misconduct committed by the Petitioner involved Moral turpitude and causing financial loss to the Bank. As the petitioner failed to take steps to ensure and protect the interest of the Bank and failed to discharge his duties with utmost integrity, honesty, devotion and diligence, this Respondent proposed to forfeit his Gratuity in terms of Sections 4(6)(b)(ii) and 4(6)(a) of Payment of Gratuity Act, 1972. In that regard, the petitioner was called upon to submit his explanation by the proceedings dated 14.08.2013. On receipt of the same, the petitioner submitted his explanation dated 28.08.2013.”

6. This Court is of the considered opinion that, when the punishment of dismissal from service was modified as compulsory retirement, the petitioner would be eligible to get the benefits, as applicable



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to the compulsorily retirement employees as per the Rules. In the present case, the respondent has stated that the eligible benefits due to the petitioner had already been disbursed. The petitioner is not eligible for gratuity as per the provisions of the Gratuity Act. Thus, the respondent issued Form-M notice, informing the writ petitioner regarding forfeiture of the gratuity amount as per the Rules in force. Thus, this Court do not find any infirmity in respect of the impugned notice issued to the petitioner, which is in consonance with the Service Rules in force.

7. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.07.2022

Jeni

Index : Yes

Speaking order : Yes

To

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S.M. SUBRAMANIAM, J.

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