BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13093 of 2021
and
W.M.P.(MD)Nos.10127 and 10128 of 2021
and
W.M.P.(MD)No.5835 of 2022

S.Jayashankar ... Petitioner

Vs.

1.Union Bank of India,
The Branch Manager,
Nadu Kavery Branch,
Main Road, Agraharam,
Thanjavur,
Through its Bank Manager,

2.Union of India,
The Branch Manager,
Cantonment Branch,
Tirchirappalli,
Through its Branch Manager. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned communication dated 26.02.2021 through email by the 1st respondent to the 2nd respondent and quash the same as arbitrary, illegal and without jurisdiction and consequently forebear the respondents from freezing the petitioner's pension account No.552802070002235 of the petitioner, maintained with the 2nd respondent and further direct the respondents to release the pension of the petitioner.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.N.Dilipkumar,
Standing Counsel.

ORDER

Heard the learned counsel for the writ petitioner and the learned standing counsel for the Bank.

2.The writ petitioner served the respondent Bank as Manager. He took voluntary retirement in the year 2008. The petitioner was constrained to move this Court because his pension account was frozen in February 2021. He has not been getting his monthly pension ever since.

3.When the matter was taken up for hearing, the learned standing counsel for the Bank submitted that the petitioner had availed three loans by pledging national savings certificates. The said certificates appear to have been encashed sometime in the year 2013. The current outstanding is to the tune of Rs.1,17,909/- as on 23.09.2022. The Bank is ready to give quietus to the issue by accepting a sum of Rs.50,000/- from the writ petitioner.

4.I carefully considered the rival contentions and went through the materials on record. The writ petitioner is admittedly a former employee of the respondent Bank. There is no dispute that the petitioner took voluntary retirement sometime in the year 2008. If the petitioner had some outstanding liability to clear, the employer would not have permitted the petitioner to go on voluntary retirement. I take judicial notice of the fact that in all such cases, no due certificate is obtained from the previous branches and only thereafter an employee is allowed to go on voluntary retirement. The fact that the petitioner was allowed to go on voluntary retirement *prima facie* indicates that the employer did not find the petitioner under any monetary obligation. Even according to the Bank, the loans in question were availed in the year 2001 to 2003. The certificates also appear to have been encashed in the year 2013. To raise demand for the first time in the 2021 is hopelessly time barred. The Bank has another Himalayan impediment to cross. The account in question is the petitioner's pension account. A pension account cannot be attached. The Hon'ble Supreme Court in the decision reported in ***(2009) 1 SCC 376 (Radhey***

Shyam Gupta Vs. Punjab National Bank and Another) held that retireral benefits such as pension and gratuity are immune from attachment even at their hands.

5.In this view of the matter, the impugned communication is set aside. The respondent is directed to de-freeze the petitioner's pension account and the petitioner is entitled to withdraw the arrears forthwith and without any delay. The writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.11.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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W.P(MD)No.13093 of 2021

04.11.2022