

HONOURABLE SRI JUSTICE E.V.VENUGOPAL

W.P.No.4015 of 2015

ORDER:

This writ petition is filed under Article 226 of Constitution of India seeking the following relief:

.....‘to issue a writ in the nature of mandamus, or any other appropriate writ, order or direction declaring the orders dated 19.01.2015 of the appellate authority, the respondent No.2 herein passed in appeal No.36/05/2013-E1/PG as illegal and arbitrary and setting aside the same and pass such other order or orders this Hon’ble Court deems fit and proper in the circumstances of the case’.

2. Learned counsel for the petitioner, Ms.Kalpana Ekbote submits that the case of the writ petitioner stands good on merits. The 3rd respondent left the petitioner’s bank and submitted his resignation to the petitioner’s bank on 27.03.2005 and without waiting for the outcome of his resignation, the 3rd respondent abstained from duties w.e.f.28.06.2005 unauthorizedly and further submits that a CBI case was pending against the respondent for committing of financial irregularities while he was working as Assistant and Vice President and in charge of the then Global Trust Bank at Fort Mumbai Branch and further seeks this Court’s intervention to set aside the orders passed by the Appellate Authority under Payment of Gratuity Act, 1972, Hyderabad

on 19.01.2015 and further submits that on relieving the respondent No.3 from the bank w.e.f 27.06.2005 it has been made clear in the relieving order that *“he shall not be absolved of any responsibility, liability due to any omission or commission on his part or any kind of loss suffered by the bank due to his acts which comes to the notice of the bank at a later stage”*.

3. Learned counsel further submits that the respondent No.3 filed a claim petition before the controlling authority under the Payment of Gratuity Act, 1972 alleging that his retirement benefits such as provident funds, gratuity etc were paid to him on 15.09.2009, after four years without any interest and seeks this court intervention to declare the order passed by the appellate authority as illegal, arbitrary.

4. Learned counsel for the respondent Ms.Vedula Chitralkha, representing on behalf of Mr.Vedula Srinivas strongly submits that the respondent No.3 has submitted his resignation on 27.03.2005 as a three (3) months notice as per the terms and conditions of the appellant appointment order which is reproduced here under:

“an officer shall not leave or discontinue his service in the Bank without first giving a notice in writing of his intention to leave or discontinue his service or resign. The period of notice required shall be submitted to the

Competent Authority as prescribed in these regulations. Provided further that the Competent Authority may reduce the period of 3 months or remit the requirement of notice”.

5. Learned counsel further submits that the respondent bank neither given a posting nor relieved him after expiry of three (3) months notice period. Learned Counsel further contends that so far as payment is concerned, the obligation to pay the gratuity is created by Section 4(1) of the Payment of Gratuity Act which provides that gratuity shall be payable to an employee on the terminate of his employment after he has rendered continuous services for not less than five (5) years.

- (a) On his superannuation or
- (b) On his retirement or resignation or
- (c) On his death or disablement due to accident or disease, provided that the completion of continuous services of five years shall not be necessary where the termination of the employment or any employee is due to death or disablement.

6. Learned counsel further draws the attention of this Court that the case of respondent No.3 is covered under Section 4(6) (1) and (b) (i) & (ii) of Payment of Gratuity Act and further submits that the respondent No.3 is entitled for the

benefits accordingly and therefore prays this court to declare the impugned order passed by the appellant authority as legal and good on merits, facts on law.

7. This Court after considering the facts and submissions made by both the counsels is not inclined to entertain and interfere with the orders passed by the appellant authority.

8. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

9. In the result, the respondents are directed to release the pending payments to respondent No.3 within twelve (12) weeks from the date of receipt of a copy of order of this Court.

10. Miscellaneous petitions, if any, pending in this writ petition, shall also stand dismissed.

JUSTICE E.V.VENUGOPAL

Dated: 16.11.2022
Chs/Vsl

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