OD 6

WPO/1776/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MURARI KEDIA HUF AND ANR.
VS
THE POSTMASTER , BARABAZAR
POST OFFICE AND ANR.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 21st July, 2023.

Appearance:
Mr. Vinay Shraff, Adv.
Ms. P.S. Paul, Adv.
…for the petitioners

Ms. Rini Bhattacharyya, Adv.
…for the respondents

The Court: Learned counsel for the petitioner contends that the petitioner had a deposit with the concerned post office, under a Public Provident Fund Scheme.

It is submitted that the said scheme continued up to March 31, 2019 and was subsequently closed. Thereafter, when the petitioner asked for refund of the amount along with interest, the interest was refused by the Postal Authorities by citing a notification dated December 7, 2010. In terms of the said notification, an account opened on behalf of a Hindu Undivided Family (HUF) prior to May 13, 2005 shall be closed after expiry of 15 years from the end of the year in which the initial subscription was made and the entire amount standing at the credit of the subscriber shall be refunded, after making adjustments, if any, in respect of any interest due from the subscriber on loans taken by him. It is contended that in terms of the said notification, the time of 15 years after opening the account expired on March 31, 2014.

However, even subsequent thereto, the petitioner's deposits were accepted under the said account by the Postal Authorities and interest was also shown to have accrued in the account of the petitioner. In that regard, the petitioner also places reliance on photocopies of the relevant extracts from the passbook of the petitioner with regard to the said account.

It is contended that even if, in terms of the notification, the tenure of the scheme expired on March 31, 2014, the petitioner was never intimated as to such expiry. That apart, even subsequent deposits were accepted from the petitioner by the respondent authorities under the scheme. Hence, it is submitted, the petitioner is entitled, under the doctrine of legitimate expectation, to the refund of the entire amount, including the interest payable on the said sum, up to March 31, 2019, as well as interest for the subsequent period, till refund of the said amount to the petitioner.

In support of such contentions, learned counsel for the petitioner places reliance on certain judgments.

The petitioner first cites a judgment of the Supreme Court rendered in *MRF Limited versus Assistant Commissioner (Assessment) Sales Tax* reported at *2006 (206) E.L.T. 6 (S.C.).* Learned counsel further places reliance on another judgment of the Supreme Court rendered in Civil Appeal No(s). 593-594 of 2020 (M/s. Granules India Ltd. versus Union of India and Ors.). Learned counsel further cites The State of Gujarat & Ors. versus Talsibhai Dhanjibhai Patel which was rendered on February 18, 2022.

Learned counsel then cites a judgment of the High Court of Karnataka at Bengaluru, in the matter of Sri. K. Shankarlal, versus The Postmaster HSG I India Post, etc.

Learned counsel also places reliance on certain judgments annexed to the writ petition in support of his contentions. It is argued that in view of the respondent authorities having withheld the interest of the petitioners during the entire period of the litigation, the petitioner is also entitled to subsequent interest till recovery.

Learned counsel appearing for the respondent authorities cites a printout handed over to Court today, from the concerned website of the Department of the Administrative Reforms and Public Grievances of the Government of India, and contends that there is availability of an equally efficacious alternative remedy in the form of a complaint before the appropriate authority as contemplated under the said scheme. Hence, the present writ petition, it is argued, is barred by law.

Learned counsel also contends that the Postal Department itself, during the relevant period when the tenure of 15 years elapsed in the present case, was undergoing certain internal migration issues, due to shifting from the physical mode to digital operation. As such, it is argued, the Postal Department cannot be faulted for not having informed the petitioner about the concerned notification.

It is further argued by the respondent authorities that the petitioner only made deposits up to the month of May, 2015. As such, the argument, that the petitioner is entitled to interest up to March 31, 2019, is not legally tenable.

Upon hearing learned counsel for the parties, the issue which strikes at the root on the question of maintainability, is the availability of an alternative remedy.

A bare perusal of the printout handed over on behalf of the respondent indicates that the Centralised Public Grievance Redress and Monitoring System is an online platform available to the citizens 24/7 to lodge their grievances to the public authorities "on any subject related to service delivery".

However, in so far as the challenge thrown in the instant writ petition is concerned, the same pertains to more basic questions as to entitlement of the petitioner with regard to the refund of the interest payable on the scheme opened by the petitioner. The issues herein involve both questions of law as well as adjudication on Constitutional doctrines as well as principles of natural justice. Hence, it can safely be said that the subject matter of the present writ petition is not restricted to service delivery, which is adjudicable by the authority contemplated under the scheme as cited by the respondents.

In so far as the internal difficulties and migration issues of the postal department is concerned, the same, per se, cannot be a defence in the present case, since the pertinent question is on the entitlement of the petitioner and not mere mala fides on the part of the Postal Authorities. Irrespective of the intentions of the Postal Authorities, it is required to be decided in the present case as to whether the petitioner is entitled in law and in equity to the claim as made in the present writ petition. Hence, such internal issues cannot assume a relevant proportion in the present context.

Inasmuch as the alleged deposit of amounts by the petitioner in connection with the account-in-dispute only up to the month of May 2015 is concerned, the same is also not germane. As rightly contended by learned counsel for the petitioner, irrespective of the length of time up to which deposits were made, the nature of the Public Provident Fund Scheme was such that the same would yield benefits to the petitioner till it was closed, on the basis of the amount which had been deposited in total by the account holder.

Hence, the said issue is also not germane in the present context.

In so far as the judgment cited by the petitioner is concerned, it is the consistent view of the Supreme Court as well as other High Courts, that the State or its instrumentalities cannot take advantage of their own wrong. As held by the Supreme Court in *MRF Limited (supra)*, quoted from previous judgments of the Supreme Court itself, a person may have a 'legitimate expectation' of being treated in certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either on the basis of representation or promise made by the authority, including an implied representation or from consistent past practice.

In the present case, it cannot be ignored that the petitioner had gone on depositing under the scheme offered by the respondent authorities. Further, the respondent authorities never refused to accept deposits under the said scheme, even after the expiry of the tenure thereof under the relevant notification.

As held by the Supreme Court in *M/s. Granules India Ltd. (supra),* the State is the largest litigant and stands in a category apart, having a solemn and Constitutional duty to assist the Court in dispensation of justice. The State cannot behave like a public litigant and rely on abstract theories of burden of proof.

As held in *the State of Gujarat (supra)*, the State cannot be permitted to take the benefit of its own wrong. It has been consistently held by the Supreme Court in several cases in disputes such as the present one that, having kept quite all along, the authorities cannot pass the buck upon the petitioner and render an account irregular and deny interest for the investment made by an account-holder.

Hence, placing reliance on the proposition of law laid down in the above noted judgments, the petitioner in the present case can definitely rely on the doctrine of legitimate expectation for making the claim as made in the present writ petition.

That apart, even a bare perusal of the notification dated December 7, 2010 reveals that the same contemplates that an account of the nature as held by the petitioner shall be closed after expiry of 15 years from the end of the year in which the initial subscription was made and "the entire amount standing at the credit of the subscriber shall be refunded .....".

In the present case, there is no question of making any adjustments, since there is no allegation that there was any interest due from the subscribers/petitioner on loans taken by him. Hence, it is clear that it was the incumbent duty of the respondent authorities, after the expiry of the tenure of 15 years, to refund to the subscriber the entire amount standing at the credit of the subscriber (obviously including the interest accrued up to date).

Having not done so, the respondent authorities are bound by the principles of estoppel as well as acquiescence.

Although learned counsel appearing for the respondent authorities seeks to place reliance on Clause 14 of an amendment to the extant regulation, which says that in case any post office accepts deposits after the majority of the account on completion of 15 years or more, such deposits of subscription is irregular as per the rules of the scheme, such irregularity in the account book of the Postal Authorities does not render the claim of the petitioner vis-à-vis the Postal Authorities illegitimate or illegal.

Insofar as the jural relationship between the petitioner and the respondent authorities is concerned, the respondent authorities, having accepted deposits even after the expiry of the expiry of the notification period, and not refunded the same, are bound by their said action to honour their commitments to the petitioner under the Public Provident Fund Scheme, till the same was closed on March 31, 2019.

Hence, despite the stand taken by the respondent authorities, there is nothing to deter this Court from directing the respondent authorities to pay the interest on the petitioner's deposits under the concerned scheme at the rate under the scheme, till March 31, 2019.

Since the respondent authorities unlawfully withheld the said interest from the petitioner till date, the petitioner is also entitled to interest on the said interest at a reasonable bank rate.

Accordingly, WPO 1776 of 2021 is allowed on context, thereby directing the respondent authorities to disburse the entire amount of interest accrued to the petitioner on the deposits made under the concerned Public Provident Fund Scheme, in terms of the provisions of the scheme till March 31, 2019.

The respondent authorities shall also pay to the petitioner interest on the amount which was payable to the petitioner in terms of the above direction as on March 31, 2019, at the rate of 8% per annum till the date of payment of the same to the petitioner.

The entire payment, as directed above, shall be made to the petitioner by the respondent authorities within August 31, 2023. In the event such payment is not made by August 31, 2023, the respondent authorities shall pay further interest to the petitioner, taking the principal to be the total amount payable as on August 31, 2023, at the rate of 8% per annum on the said amount which is payable on August 31, 2023 till disbursal of the amount to the petitioner.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

SP/