



W.P.No.21023 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.21023 of 2023

P.Manivannan

...Petitioner

Vs.

1.The Secretary to
Government, Micro Small and
Medium Enterprises
Department
Fort St.George
Chennai 600 009.

2.Managing Director
The Tamil Nadu Industrial Co-operative Bank Ltd.
36, South Cananl Bank Road
Raja Annamalaipuram
Mandavelipakkam
Chennai 600 0028.

3.The Assistant Director of
Industries and Commerce
(Industrial Co-operatives)
O/o.The General Manager
The District Industries Centre
Dharmapuri 5.



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4.The Branch Manager
Tamil Nadu Industrial
Co-operative Bank
Dharmapuri Branch
Pidemaneri Road
Dharmapuri.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to refund an amount of Rs.4,51,346/- along with 15% interest per annum or as may be fixed by this Court till the date of disbursal within the time as may be stipulated and other orders as this Court.

For Petitioner : Mr.R.Rajendran

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

The petitioner herein seeks a direction to the respondents to refund the amount of Rs.4,51,346/- together with 15% interest per annum.

2. According to the petitioner, he retired as Assistant Director of the Industries and Commerce Department of Government of Tamil Nadu.



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During his tenure as Branch Manager, TAICO Bank, Dharmapuri, he sanctioned Regular Overdraft Loans (ROD) of Rs.2 lakhs to one C.Jayalakshmi and another Rs.2 lakhs to one M.Sivakumar. The petitioner had taken all efforts diligently for recovery of the loan amount, in spite of his attempts, a portion of the loan amount remained unpaid.

3. The Special Officer of the TAICO Bank, Chennai filed an Arbitration proceedings against the regular overdraft loan defaulters and an award was passed against the borrowers.

4. Simultaneously, the respondents 2 & 3 also initiated surcharge proceedings against the petitioner at the fag-end of his career. In the said proceedings, a surcharge order was passed against the petitioner for the above said sum with interest at the rate of 15% from 18.08.2015.

5. In view of the fact that the retirement date of the petitioner fell on 31.08.2015, the petitioner paid the surcharge amount on 20.08.2015 without prejudice to his right of appeal. Thereafter, the petitioner filed an appeal before the Co-operative Tribunal in CMA.(CS).No.11 of 2019 and the



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said appeal was allowed and the surcharge order passed against the petitioner was set aside on the ground of limitation. Even after allowing of his appeal and setting aside of the surcharge order passed against him, the respondents herein failed to refund the amount paid by the petitioner as per the surcharge order.

6. The learned counsel for the petitioner by taking this Court to the various representations made by the petitioner to the respondents, more particularly to the second respondent, seeking refund of the amount by relying on the order passed by the co-operative Tribunal in CMA.(CS).No.11 of 2019 dated 18.12.2020, submitted that eventhough an order was passed infavour of the petitioner as early as on 18.12.2020, till date, the second respondent has not refunded the amount. Therefore, the second respondent shall be directed to refund the same with interest.

7. Mr. R.U.Dinesh Rajkumar, learned Government Advocate, who takes notice for the respondents, on written instructions from the second respondent submits that the second respondent has taken steps to file a revision challenging the order passed by the Cooperative Tribunal in



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CMA(CS).No.11 of 2019. Due to illness of the Panel Advocate, the papers have not been filed so far.

8. The cooperative Tribunal passed the order in favour of the petitioner in the year 2020 setting aside the surcharge order, however, even after a lapse of two and half years, the second respondent has not filed any revision challenging the order passed by the Cooperative Tribunal in favour of the petitioner. Since the surcharge order passed against the petitioner was set aside in the appeal by the Cooperative Tribunal, the respondents are not entitled to retain the amount deposited by the petitioner. Therefore, the petitioner is entitled to refund of the said amount. In case the second respondent files a revision and succeeds in their case, it is needless to say that he is entitled to recover the amount from the petitioner as ordered.

9. Though two and half years have gone from the date of allowing of appeal by the Cooperative Tribunal, the second respondent has not filed any revision so far. In these circumstances, there is no impediment to this Court to direct the second respondent to refund the amount of Rs.4,51,346/- paid by the petitioner. The petitioner is also entitled to interest at the rate of 6% from the



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date of the order passed by the Cooperative Tribunal till the date of actual refund.

10. With the above directions, this Writ Petition is allowed. The second respondent is directed to pay the above said amount with the interest as ordered within a period of eight weeks from the date of receipt of copy of this order. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
dna



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