



WEB COPY



W.P.No.25307 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25307 of 2023
and
W.M.P.No.24720 of 2023

The General Manager,
Indian Bank,
Corporate Office,
254, Avvai Shanmugam Salai,
Royapettah,
Chennai - 600 014.

... Petitioner

Vs.

1. The Deputy Chief Labour Commissioner (Central)
(Appellate Authority under the Payment of Gratuity
Act, 1972),
4 Haddows Road,
Shastri Bhavan,
Chennai - 600 006.
2. The Regional Labour Labour Commissioner (Central)
(Controlling Authority under the Payment of Gratuity
Act, 1972),
Madurai (I/c).
3. Shri S.Aiyyappan

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the first respondent in common order in P.G.A.Nos.50 of 2022 and 12 of 2023 dated 16.05.2023 and quash the same modifying the order of the second respondent dated 20.09.2022 in P.G.Application No.48/145/2019/RM.

For Petitioner : Mr.Ragunathan
for M/s.T.S.Gopalan and Company

For Respondents : Mr.R.Sidharth
Central Govt. Counsel for R1 & R2
Mr.P.K.Rajesh Praveen Kumar

ORDER

The petitioner has filed this Writ Petition seeking issuance of Writ of Certiorari calling for the records of the first respondent in P.G.A.Nos.50 of 2022 and 12 of 2023 and quash its order dated 16.05.2023 modifying the order of the second respondent dated 20.09.2022 in P.G.Application No.48/145/2019/RM.

2. The case of the petitioner is that when the third respondent was working in Gudular Branch, a big fraud was perpetuated on the Bank by



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making irregular advances which, instead of going to the beneficiary, had gone to the hands of fraudsters. Hence, the third respondent was awarded the punishment of compulsory retirement.

3. The further case of the petitioner is that the third respondent was allowed to retire before reaching the age of superannuation and provisional pension was released to him, however, the gratuity payable to him was withheld. Hence, the third respondent approached the second respondent for payment of gratuity under Section 7 of the Payment of Gratuity Act in P.G.Application No.48/145/2019/RM and the said case was allowed by the second respondent on 20.09.2022. Aggrieved by the same, the petitioner filed appeal in P.G.A.Case No.12 of 2023 and the third respondent filed appeal in P.G.A.Case No.50 of 2022 before the first respondent, however, the first respondent vide order dated 16.05.2023 dismissed the petitioner's appeal. Challenging the same, the petitioner has filed this writ petition.



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4. The learned counsel appearing for the petitioner submitted that since the Central Bureau of Investigation has registered a criminal case in FIR No.RCMA12009A0025 before the learned II Additional Special Judge, CBI Cases, Coimbatore and the third respondent is arrayed as A2 in the said case and still the said case is pending, the gratuity amount payable to the third respondent has been deposited before the second respondent. If the third respondent is acquitted from the said case, the third respondent is entitled to withdraw the amount lying before the second respondent. If the third respondent is convicted, the petitioner is entitled to withdraw the amount lying before the second respondent.

5. The learned counsel appearing for the third respondent raise no serious objection.

6. It is the contention of the learned counsel appearing for the petitioner that since the Central Bureau of Investigation has registered a criminal case in FIR No.RCMA12009A0025 before the learned II Additional Special Judge, CBI Cases, Coimbatore and the third respondent is arrayed as



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A2 in the said case and still the said case is pending, the gratuity amount payable to the third respondent has been deposited before the second respondent.

7. In view of the above, this Court permits the third respondent to withdraw the amount lying before the second respondent, if he is acquitted from the case bearing FIR No.RCMA12009A0025 pending before the learned II Additional Special Judge, CBI Cases, Coimbatore. If the third respondent is convicted in the said case, this Court permits the petitioner to withdraw the amount lying before the second respondent.

8. The Writ petition is disposed of on the above terms. No costs.
Consequently, connected Miscellaneous Petition is closed.

04.09.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji



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