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W.P.No.2702 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.2702 of 2017
And
W.M.P.No.2645 of 2017**

The Deputy General Manager (HRM)
Indian Bank
Corporate Office
254 – 260, Avvai Shanmugam Salai,
Royapettah,
Chennai 600 014.

... Petitioner

Vs.

1.The Appellate Authority under the
Payment of Gratuity Act, 1972 &
Dy. Chief Labour Commissioner (Central)
No.26, Haddows Road,
Sastri Bhavan,
Chennai 600 006.

2.The (Controlling Authority under the
Payment of Gratuity Act, 1972) and the
Assistant Labour Commissioner (Central)
No.26, Haddows Road,
Sastri Bhavan,
Chennai 600 006.

3.Shri C.Srinivasan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records of the first respondent



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in GA Case No.03 of 2016 and quash its order dated 29.11.2016 confirming the order of the second respondent dated 14.06.2016 in GA Case No.23 of 2014.

For Petitioner : Mr.G.Anand
for M/s.T.S.Gopalan and Co.

For Respondents : No Appearance for R1 and R2
Mr.K.M.Ramesh for R3
Senior Counsel
for Mr.S.Apunu

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the first respondent in GA Case No.03 of 2016 and quash its order dated 29.11.2016 confirming the order of the second respondent dated 14.06.2016 in GA Case No.23 of 2014.

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 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 stoppage of next increment for a period of six months.



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3.The further case of the petitioner is that the third respondent was allowed to retire on 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 GA Case No.23 of 2014 and the said case was allowed by the second respondent on 14.06.2016. Aggrieved by the same, the petitioner filed appeal in G.A.Case No.3 of 2016 before the first respondent, however, the first respondent vide order dated 29.11.2016 dismissed the said appeal. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that since the Central Bureau of Investigation has registered a criminal case bearing No.RC 25(A)/2009 before the Court of Special Judge, CBI, Coimbatore and the third respondent is arrayed as A6 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



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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 Senior 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 bearing No.RC 25(A)/2009 before the Court of Special Judge, CBI, Coimbatore and the third respondent is arrayed as A6 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 No.RC 25(A)/2009 pending before the Court of Special Judge, CBI, 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.



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8.The writ petition is disposed of on the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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M.DHANDAPANI,J.
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