IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.29492 of 2018

S.Mahendran ... Petitioner

Versus

1. The Internal Ombudsman
Canara Bank Head Office,
No.112, J.C.Road, Bangalore.

2. The Assistant General Manager,
Office of the Banking Ombudsman,
Reserve Bank of India,
Chennai-1.

3. The Branch Manager,
Canara Bank, Srivilliputhur,
Virudhunagar District. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records in connection with the conclusion of the meeting for petitioner personal hearing with Internal Ombudsman, Canara Bank, Head Office, Bangalore the 1st respondent herein held at 11.00AM on 04.10.2017 and quash the same as illegal, arbitrary and mala fide and to direct the 1st respondent to calculate the interest for Rs.4,37,002/- at 18 percentage compound interest from the date of appropriation to till the date of payment as per award of Banking Ombudsman Chennai award No. AC-003/ 1999-2000 dated 31.08.2000 deducting the amount already paid(Rs. 19,44,126/-) and reasonable compensation for petitioner mental agony for agitating about 22 years before the Banking Ombudsman, High Court in Writ petition and writ appeal and contempt petition with exemplary cost.

For Petitioners	:	Mr.M.Nalla Thambi
For Respondents	:	Mr. K.Rajesh for M/s.T.S.Gopalan & Co RR1 & 3 Mr.C.Mohan for M/s.King & partridge RR2 & 4

ORDER

The writ petition has been filed seeking to quash the communication of the Internal Ombudsman, Canara Bank, Head Office, Bangalore dated 04.10.2017 and to direct the 1st respondent to calculate the interest for Rs.4,37,002/- at 18% percentage compound interest from the date of appropriation to till the date of payment.

2. It is the grievance of the petitioner that while he was working in abroad, he used to deposit some money in the form of Fixed Deposit in the 3rd respondent Bank from the year 1989 and used to get personal loan in the said bank from the year 1992. In the year 1998, the petitioner observed that the said bank has charged exorbitant interest on his personal loan and credited lesser interest to his fixed deposit. In this regard, the petitioner has approached the 4th respondent against the third respondent. The 4th respondent, after

hearing both sides, passed an award dated 31.08.2000 in favour of the petitioner. Challenging the said award, the third respondent bank filed a writ petition in the year 2002 and this Court also passed an order in favour of the petitioner. As against the said order, the Bank has filed a writ appeal and the same was dismissed. Thereafter, the third respondent has paid excess interest amount to the petitioner and no interest has paid for the pre-award period. Therefore, the petitioner has filed a contempt before this Court to obey the orders of this Court and this Court, remanded the matter bank to the first respondent. Pursuant to which, on 04.10.2017, the first respondent reduced the claim made by the petitioner. Not satisfied with the said order, the petitioner has made several representations to the RBI and In reply dated 22.06.2018, the RBI directed the petitioner that if he has any grievance against the order of the first respondent dated 04.10.2017, the petitioner shall proceed with the matter in the manner known to law. Without having no other option, the petitioner has filed the present writ petition challenging the order dated 04.10.2017 passed by the first respondent.

3. The learned counsel for the petitioner submitted that the petitioner is entitled to receive at 12% interest and however, the first respondent, without following the Banks compensation policy and order of the Banking

Ombudsman and orders of this Court, miscalculated the amount only for the purpose of reducing the settlement against the award and directed to pay the interest at the rate of 10% to the petitioner, which is not sustainable one.

4. The learned counsel for the third respondent filed a counter and the relevant paragraphs are extracted hereunder:

> *"6.I submit that as early as on 24.03.2016, out Bank complied with all the three directions of the Banking Ombudsman.*
>
> *a. Our Bank charged interest on loan against FCNR/NRNR deposits as per the original contract rate and details of rectification were furnished.*
>
> *b. Out Bank re-credited the excess interest charged with interest at FD rate of interest. The FD rate of interest was 10% per annum as at 31.08.2000 (the date of the award) The interest reckoned was simple interest and the same was from the date of the award till 24.03.2016.*
>
> *c. Out Bank paid Rs.2000/- to the complainant for costs and expenses. Thus the bank implemented the award of the banking ombudsman dated 31.08.2000 and paid a sum of Rs.11,23,376/- to the petitioner. The Bank also enclosed a worksheet in support of the payment.*
>
> *7. I submit that not satisfied with the above, on 18.01.2017 the petitioner filed a petition before the Hon'ble Division Bench seeking to punish Mr.K.Elango chief Manager,*

Srivilliputtur Branch for Contempt of this Court. The said petition was numbered as Cont.Pet.No.310 of 2017. The petitioner alleged that the said K.Elango who was High educated wilfully knew the spirit of the order, disobeyed the same arrived at a meagre figure figure wrongly against known accounting principles."

5. Heard both sides and perused the materials.

6. The facts of the case are not in dispute. Admittedly, the petitioner has made fixed deposit in the third respondent Bank, in which, the petitioner has availed personal loan the said bank. However, it is alleged that the Bank has fixed a higher rate of interest for the loan availed by the petitioner. Whereas lesser interest was paid for the fixed deposit made by the petitioner, for which, the petitioner raised a dispute before the Banking Ombudsman and subsequently, it was landed before this Court and this Court has also confirmed the order of the Ombudsman. At this stage, the petitioner claims that he is entitled for 12% interest, however, in order to substantiate his claim, he has not produced any proof before this Court. Therefore, the prayer sought for by the petitioner cannot be granted and hence, the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law and the period pending before this Court is excluded for the purpose of limitation. No costs. Consequently, connected miscellaneous petition is also closed.

08.03.2023

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Index : Yes/No
Internet : Yes/No

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M. DHANDAPANI, J

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