



W.P.(MD).No.21436 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21436 of 2019

M.Chinnasekkan

... Petitioner

Vs.

The President,
The Tamil Nadu Circle Postal,
Co-operative Bank Limited, No.1031,
No.18/19, Jahangir Street,
(2nd Line Beach), Post Box No.5026,
Chennai – 600 001.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to issue a sum of Rs.53,024/- (Fifty Three Thousand and Twenty Four only) along with interest to the petitioner from his retirement date (i.e) 30.06.2008.

For Petitioner : Mr.K.Suresh Kumar

For Respondent : Mr.S.Thirupathy



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ORDER

This Writ Petition is filed for Mandamus directing the respondent to issue a sum of Rs.53,024/- (Fifty Three Thousand and Twenty Four only) along with interest to the petitioner from his retirement date (i.e) 30.06.2008.

2. The petitioner was working as Sub-Post Master in Sub- Post Office, Puzhithipatti, Karaikkudi Division, Sivagangai District and retired on 30.06.2008. The petitioner deposited amount in various heads through A/c.No.A30196/2000 maintained with the respondent bank and hence the petitioner is entitled to amount, which the respondent is bound to return to the petitioner. The statement of accounts as stated by the petitioner is as follows:

Assets

Share capital	-	Rs.16,000/-
Third Fund	-	Rs.41,413/-
Family Welfare Fund	-	Rs.1,780/-
Int.on T/F. for 08.09	-	Rs.1,035/-
DCRG Amt.	-	Rs.2,14,275/-
Total	-	<u>Rs.2,74,503/-</u>
Less Liabilities	-	<u>Rs.2,21,479/-</u>
Balance to be refunded	-	<u>Rs.53,024/-</u>



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This was also confirmed by the respondent Bank through memo dated 25.07.2008. The respondent has retained Rs.53,024/- for the liability of one G.Ganesan (No.A 28077) who was also working as Sub-Post Master. The contention of the petitioner is that the respondent Bank shall recover the said amount from the said Ganesan through various sources. Without initiating any proceedings against the said Ganesan, the respondent has no power to withhold the amount which belongs to the petitioner. The further contention of the petitioner is that he is 71 years old and he needs money for his treatment. Hence, the petitioner preferred a representation to the respondent for disbursal of the amount. Since no action was taken, the present Writ Petition is filed.

3. The respondent has filed a counter stating that the Writ Petition is not maintainable, since it is a Society. The petitioner stood as a surety to the loan availed by one Ganesan. Since the principal debtor failed to repay the loan availed by the said Ganesan and the petitioner stood as the surety to the loan, he is liable to pay the amount as per the loan agreement. His remedy is only to claim from the Principal Debtor. The said amount is also recovered in the year 2008 itself from his terminal benefits. The petitioner ought to have filed suit



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within a period of 3 years and the petitioner has slept over his right and come up with this Writ Petition in the year 2019. Hence, the present Writ Petition is not maintainable on this aspect as well and prayed to dismiss this Writ Petition.

4. Heard Mr.K.Suresh Kumar, learned counsel for the petitioner and Mr.S.Thirupathy, learned counsel for the respondent and perused the records.

5. It is an admitted fact that the petitioner stood as the surety to the said Ganesan. The respondent has unilaterally deducted the said amount without initiating any proceedings. The respondent has not stated whether the recovery proceedings are initiated against the original debtor and also there is no proceeding initiating against the petitioner as well. Any recovery even though it is a debt or it is a surety, the respondent ought to have initiated separate proceedings to recover the said amount. The counter is bereft of any such details. Hence, the respondent is directed to pay the amount of Rs.53,024/- (Rupees Fifty Three Thousand and Twenty Four only) within a period of four (4) weeks from the date of receipt of a copy of this order.



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6. The learned counsel appearing for the petitioner claims interest. It is seen that the petitioner is retired from 2008 onwards and the Writ Petition is filed in the year 2019. Since it is a belated Writ Petition, this Court is not inclined to grant interest for the said period. The petitioner is entitled to the interest from 06.09.2019 onwards at the rate of 6% only.

7. In view of the above, this Writ Petition is allowed in above terms.
There shall be no order as to costs.

11.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

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S.SRIMATHY, J.

Nsr

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