



W.P.(MD)No.908 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.908 of 2016

and

W.M.P.(MD)No.693 of 2016

S.Chellappa

... Petitioner

vs.

1.The General Manager (Admin),
Tamilnadu Grama Bank,
Administrative Office,
No.6, Yercaud Road,
Hasthampatti, Salem-636 007.

2.The Chief Manager,
Tamilnadu Grama Bank,
Administrative Office,
No.6, Yercaud Road,
Hasthampatti, Salem-636 007.

... Respondents

***(Cause title amended, vide order of
this Court, dated 19.06.2023, in
W.M.P.(MD)No.4945 of 2022 in
W.P.(MD)No.908 of 2016)***



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the 2nd respondent / The Chief Manager of Pandyan Grama Bank in his letter, dated 25.09.2015 in PAD/A1/09/80/2015-16 and to quash the same and consequently, to direct the 2nd respondent to issue annual increment letter based on the circular No.PAD/30/2015-16, dated 29.08.2015 against 20th stage of increment within the stipulated time as fixed by this Court and to pay along with arrears of increment with interest and all other monetary benefits.

For Petitioner : Mr.C.Masilamani
For Respondents : Mr.N.Dilip Kumar

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned proceedings dated 25.09.2015 issued by the 2nd respondent and consequently, to direct the 2nd respondent to issue annual



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increment letter based on the circular, dated 29.08.2015 against 20th stage of increment within the stipulated time as fixed by this Court and to pay along with arrears of increment with interest and all other monetary benefits.

2. The contention of the petitioner is that the petitioner is entitled to 20th stage increment which would come to Rs.28,110/-, but the respondents have fixed as Rs.15,800/-. The contention of the respondents is that the petitioner is not entitled to Rs.15,800/- but the petitioner is entitled only to Rs.13,700/-. The Association has taken up the case regarding fitment and I.D.No.66 of 2017 was filed and the same is pending. The said industrial dispute has reached the trial stage.

3. The learned Counsel for the petitioner submitted that the fitment itself is questioned in the industrial dispute. However, pending industrial



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dispute, the respondents have recovered the amount. Based on the judgment of the Hon'ble Supreme Court rendered in the case of State of Punjab and others Vs. Rafiq Mashi (White Washer) and other reported in (2015) 4 SCC 334 the respondents are not having any power to recover the amount.

4. It is seen that the same issue was already raised in W.P.(MD)No. 21473 of 2022 and the Learned Single Judge, vide order, dated 12.10.2022, has held that when the issue is pending before in I.D.No.66 of 2017, the recovery is not in accordance to law and hence, directed the respondents to refund the said amount.

5. The learned Counsel appearing for the respondents submitted that if the industrial dispute is decided against the petitioner, the petitioner is not entitled to the said amount. Therefore, the petitioner is



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directed to submit an undertaking before the respondents that if the industrial dispute is dismissed against the petitioner, the petitioner would refund the same to the respondents. After execution of such an undertaking, the respondents shall refund the said amount to the petitioner.

6. Hence following the order passed in W.P.(MD)No.21473 of 2022 and the judgment rendered in State of Punjab and others Vs. Rafiq Mashhi (White Washer) and other reported in (2015) 4 SCC 334, the impugned order is quashed and the respondents are directed to refund the said amount after taking undertaking from the petitioner as stated supra and the said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.



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7. With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

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

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S.SRIMATHY, J

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