

CWP-10776-2018

[1]

2023:PHHC:120371

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CWP-10776-2018

Date of decision: 13.09.2023

Madhu and others

...Petitioners

Versus

Chief Post Master General and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present: Mr. Himanshu Jawa, Advocate for the petitioners.  
Mr. Bharat Bhushan Sharma, Sr.Panel counsel  
for the respondents.

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**VINOD S. BHARDWAJ, J. (ORAL)**

Prayer in this petition is for seeking directions to the respondents to transmit all the records pertaining to the account of Late Suresh Malik W/o Ish Kumar; with further directions to the respondents to release the amount of Rs. 5,00,000/- claimed to have been deposited by said Suresh Malik with the respondent-Authorities in the department of Post office.

It has been averred in the present petition that late Suresh Malik was working as JBT Government Teacher and upon her superannuation in the year 2004, she deposited an amount of Rs.9 lacs with the respondents under the MIS Scheme. The payment in question was deposited by her in the shape of five cheques bearing No.317879 of Rs.2 lacs; 31780 for a sum of Rs.2 lacs; 317881 for a sum of Rs.2 lacs; 317882 for a sum of Rs.2 lacs; 317883 for a sum of Rs.1 lacs drawn in favour of the

Post master, Sonapat. The said cheques had been encashed in the year 2004 and an entry in this regard was reflected in the passbook of the petitioner. It is further averred that late Suresh Malik had received only two passbooks vide its accounts No. 22613 and 22614 issued by the post office for a sum of Rs. 2 lacs each and in which the interest was credited as per policy till the year 2010 but the post office officials had not issued/handed over the passbook for the remaining Rs.5 lacs that had been deposited by the mother of the petitioners and even though debit of the said amount thereof was duly reflected in accounts statement.

Written statement has been filed on behalf of the respondents wherein, while adverting to the issue raised in the petition with respect to the supply of documents, counsel for the respondents contends that the old record already stands weeded out as per the instructions of the respondents-department and are not available for verification of the claim. The scheme then in force stipulated a maximum deposit of Rs.3 lacs for a single account in an MIS Scheme and Rs.6 lacs for a joint account. Since the maximum permissible amount was Rs.6 lacs, there was thus no occasion for receipt of Rs.9 lacs by the post office.

While responding to specific averment made by the petitioners in para 3 that the amount of Rs.9 lacs had been debited to the account of late Suresh Malik and in favour of the Post Master, the same is denied by the respondents. It is contended that only two MIS accounts had been opened and the admissible payment was released in favour of the deceased as per the maturity available. It is also stated that the passbook is only a copy of an extract and not the complete passbook. The credit needs to be verified.

Even though the written statement had been filed by the respondents in August 2019, however, no replication/rejoinder to the same has been filed by the petitioners.

Counsel for the petitioners contends that the passbook specifically reflects that there is a debit of a sum of Rs.9 lacs and that all payment had been made by means of cheque in favour of the respondents and that they cannot run away from their obligation to refund the remaining actual amount, even if the same could not have been constructed to be in an MIS account in view of the prevailing instructions. The petitioners would thus be entitled to receive the principal amount along with overdue interest since the amount was retained by them for the entire duration.

It is however, not disputed that the passbook in question pertaining to the Syndicate Bank is only an extract of the complete passbook. Consequently, the subsequent entries relating to the status of the the cheques in question cannot be ascertained. The Syndicate Bank has not been impleaded as a party herein. Hence, the question as regards deposit of Rs.9 lacs by late Suresh Malik remains a disputed question of fact at this stage.

It has been observed that since the disputed question of facts are involved in the present petition, the same cannot be ascertained in a writ jurisdiction and the petitioners, may, if so advised, take recourse to the remedies available to them in accordance with law including and not restricted to the application before the Permanent Lok Adalat with Public Utility Services.

Taking into consideration that the disputed questions of facts

arise for determination and the same cannot be adjudicated in a writ jurisdiction, the counsel for the petitioners does not press the instant petition at this stage so as to take recourse to the alternative remedies as available.

Disposed of, as not pressed with liberty aforesaid.

In the event of the petitioners preferring any such petition/availing the alternative remedies, the period during which the present petition remained pending before this Court shall be taken into consideration while computing/dealing with the issue of limitation, if any.

**13.09.2023**

*manoj*

**(VINOD S. BHARDWAJ)**  
**JUDGE**

**Whether speaking/reasoned:-**                      **Yes/No**

**Whether reportable:-**                                      **Yes/No**