



W.P.No.3003 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	28.03.2024
Pronounced on	05.06.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.3003 of 2018

M.Ganesan

... Petitioner

Vs.

1.The State Bank of India,
Rep. by the Chief General Manager,
Local Head Office, “Circle Top House”,
16, College Lane,
Chennai – 6.

2.The Assistant General Manager,
State Bank of India,
Region-I, Zonal Office,
No.86, Rajaji Salai,
Chennai – 600 001.

3.The Deputy General Manager,
State Bank of India,
Region-I, Zonal Office,
No.86, Rajaji Salai,
Chennai – 600 001.

4.The Chief Manager,
State Bank of India,
Treasury Branch,
Thousand Light,



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Chennai – 600 006.

... Respondents

Writ Petition has been filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondents to pay petitioner arrears of subsistence allowance from the year 05.04.1994 to 07.03.2005 as per the Staff Circular No.123 dated 14.10.1983 staff circular No.3/95 dated 05.05.1995 and Staff Circular No.37 dated 17.08.1998 and as per the 6, 7 and 8th Bipartite Settlements by considering the petitioner representation dated 05.05.2017.

For Petitioner : Mr.Balan Haridas
for Mr.A.Ilaya Perumal

For Respondents : Mr.S.Ravindran,
Senior Counsel
for Mr.B.Raghavulu Naidu

ORDER

The relief sought by the petitioner in this writ petition is to call for the records relating to (i) the impugned suspension order of the second respondent in No.Dis/Con/090 dated 05.04.1993, (i) the impugned order of dismissal of the second respondent in DIS/CON No.551 dated 07.03.2005 and (iii) the impugned appellate order of the third respondent in DIS/CON/No.112 dated 14.06.2005 and quash the same and consequently direct the respondents to treat the period of suspension of the petitioner from 05.04.1993 to 07.03.2005 as one of duty for all purposes and grant the



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consequential monetary and pensionary benefits in the post of Special Assistant from 01.07.2009.

2. The case of the petitioner is that the petitioner was initially appointed as Messenger in State Bank of India on 11.06.1973 and subsequently promoted as Clerk in Treasury Branch. This being so, an order of suspension was issued by the second respondent in Dis/Con/090 dated 05.04.1993 stating that some serious misconducts have been committed by the petitioner. Thereafter, the second respondent has passed an order in Dis/Con.No.551 dated 07.03.2005 by imposing punishment of “Dismissal without notice”. Challenging the same, the petitioner has preferred an appeal before the third respondent and the same was dismissed on 14.06.2005. Aggrieved over the said order, the petitioner has filed writ petition in W.P.No.21354 of 2012 before this Court. This being so, the petitioner has sent several representations to the respondent bank to settle his subsistence allowance, however, the respondents have not considered the same. Hence, he filed a writ petition before this Court in W.P.No.14659 of 2005 to consider his representation for getting his subsistence allowance, which was also disposed of on 10.03.2006 with a direction to the respondents to consider the same



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within a period of eight weeks from the date of receipt of a copy of this order.

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3. On receipt of the said order, the respondents have paid a subsistence allowance of Rs.2390/-, from August 1999 to 07.03.2005. Aggrieved over the same, the petitioner has come forward with the present writ petition, seeking arrears of subsistence allowance for a period from 05.04.1994 to 07.03.2005 as per the Staff Circular No.123 dated 14.10.1983, Staff Circular No.3/95 dated 05.05.1995 and Staff Circular No.37 dated 17.08.1998 and as per the 6, 7 and 8th Bipartite Settlements by considering the petitioner representation dated 05.05.2017.

4. Learned counsel for the petitioner would submit that as per the Staff Circular No.123, dated 14.10.1986, the subsistence allowance should be paid to the petitioner for the first three months from 1/3rd of his salary. If the suspension order is continued after the period of 3 months, half of the salary amount has to be paid as subsistence allowance and the suspension order continues beyond one year, full salary has to be paid as subsistence allowance. Accordingly the petitioner is entitled to be paid half salary from 05.07.1993 as subsistence allowance and full salary thereafter till his



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dismissal of service as subsistence allowance.

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5. Learned counsel for the petitioner would further submitted that the petitioner was suspended from service i.e., on 05.04.1993 and he has completed his service of 19 years and 9 months. Hence, he is coming under the Stage No.19 and his basic revised pay has to be calculated from Rs.5,270/- as per the Sixth Bipartite Settlement dated 14.02.1995. As per the said Sixth Bipartite Settlement, the respondents have to pay the subsistence allowance and they have not paid the same to the petitioner till date. As per 40.12 (v) of Reference Book on Staff Matters an employee (Officer or Workman) under suspension will be given the benefit of any revision in the scales of pay and allowances, irrespective of whether the revision has been effected from a date prior to the date of suspension or not. It is pertinent to note that the respondents have paid only a sum of Rs.2390/- only, which comes under the Stage No.17 and the respondents shall pay a sum of Rs.5270/- per month. As per the 7th Bipartite Settlement dated 27.03.2000 and 8th Bipartite Settlement, the revised pay scale of the petitioner has been fixed for a sum of Rs.8600/- and Rs.12,650/- per month respectively. But, the



respondents have not paid the same as per the above said revised scale of pay to the petitioner and paid only a sum of Rs.2390/- per month.

6. Learned counsel for the petitioner would further submitted that based on the Circular No.123 dated 14.10.1993, Staff Circular No.3/95 dated 05.05.1995 and Staff Circular No.37 dated 17.08.1998, the petitioner has to be paid with the subsistence allowance from 05.04.1993 to July 1999, however, the same was not paid to him till date. Moreover, for the period from August 1999 to 07.03.2005, the petitioner has to be paid with the revised subsistence allowance based on the 6, 7 and 8th Bipartite Settlements. But, the same was not paid to the petitioner till he was dismissed from service.

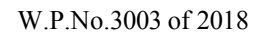
7. Learned senior counsel appearing for the respondents would further submit that the petitioner has already filed writ petition in W.P.No.9853 of 2016 before this Court, praying for issuance of mandamus directing the respondents to pay the arrears of increment of salary from the year 1988 to 2005 as per the Staff Circular No.3/95 dated 05.05.1995 forthwith.



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Moreover, to overcome the delay, the petitioner has given a representation dated 05.05.2017 solely with a view to maintain the present writ petition, which was filed in the year 2018.

8. Learned senior counsel appearing for the respondents would further submit that pursuant to the order passed by this Court in W.P.No.14659 of 2005, the petitioner has approached the respondents with a representation dated 27.03.2006 to consider his request for arrears of subsistence allowance. **The respondents after considering that representation, paid the arrears of subsistence allowance from August 1999 to 07.03.2005 accumulated due to wage revision as per the Bipartite Settlements VII & VIII. The arrears amount of Rs.4,93,566/- was paid to the petitioner through Bankers Cheque No.214853 dated 23.05.2006 for Rs.3,93,535/- after deducting a sum of Rs.1,00,031/- towards income tax. The bank also paid arrears of salary/subsistence allowance due to wage revision with effect from January 1990 to October 1998 giving effect to Bipartite Settlements V & VI. The arrears amount of Rs.1,03,502/- was paid on 24.11.1998 to the petitioner through Bankers Cheque for Rs.65,628/-,**



9. Heard the learned counsel on either side and perused the materials available on record.

10. The facts of the case is not in dispute. On perusal of the records, it is crystal clear and evident that this Court has dismissed the writ petition in W.P.No.9853 of 2016, which was filed by the petitioner seeking direction to the respondents to pay the arrears of increment of salary from the year 1988 to 2005 as per the Staff Circular No.3/95 dated 05.05.1995. For better appreciation and understanding, the relevant portion of the order is extracted hereunder:

“ The petitioner, M.Ganesan, claiming to be a senior citizen, who retired from service nine years ago, has come to this Court belatedly, seeking a direction to the respondents to pay the petitioner's arrears of increment of salary from the year 1988 to 2005 as per the Staff Circular No.3/95 dated 05.05.1995.

The petitioner, after being placed under suspension, by order dated 05.04.1993, was dismissed from service on



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07.03.2005. When there was no impediment to pursue the matter immediately after his retirement, it is not known why he has filed this petition after 10 years belatedly. Therefore, the petitioner's prayer for issuance of direction to the respondents to pay the petitioner's arrears of increment of salary from the year 1988 to 2005 as per the Staff Circular No.3/95 dated 05.05.1995 is not maintainable. Accordingly, the Writ Petition fails and the same is dismissed. No costs."

11. In the light of the aforesaid order passed by this Court in W.P.No.9853 of 2016, the petitioner is not entitled for arrears of subsistence allowance from the year 05.04.1994 to 07.03.2005 as per the Staff Circular No.123 dated 14.10.1983, Staff Circular No.3/95 dated 05.05.1995 and Staff Circular No.37 dated 17.08.1998 and as per the 6, 7 and 8th Bipartite Settlements by considering the petitioner representation dated 05.05.2017. Moreover, this writ petition is also liable to be dismissed on the ground of delay and laches. Accordingly, this writ petition is not maintainable.

12. In view of the above factual matrix of the case and the order passed by this Court in W.P.Nos.21354 of 2012 & 21250 of 2012, this writ petition stands dismissed. No costs.



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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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