



W.P.No.21250 of 2012

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.21250 of 2012

M.Ganesan

... Petitioner

Vs.

- 1.The Chief General Manager,
EPF Department, 6th Floor,
State Bank of India,
College Road,
Chennai – 600 006.
- 2.The Assistant General Manager (Admn),
State Bank of India,
Administrative Unit (NW1),
No.86, Rajaji Salai,
Chennai – 600 001.
- 3.The Chief Manager,
State Bank of India,
Treasury Branch,
Thousand Light,
Chennai – 600 006.
- 4.The Assistant General Manager,
Pension, Provident Fund and
Gratuity Department, Local Head Office,
Circletop House, Post Box No.737,



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6, College Lane,
Chennai – 600 006.

... Respondents

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Writ Petition has been filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned letter of the fourth respondent in PPG/CHE dated 10.05.2012-131 and consequently direct the respondents to settle the petitioner's entire Employees' Provident Fund amount including the PF bank's contribution in Index No.1478958 with applicable interest as on date.

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 the impugned letter of the fourth respondent in PPG/CHE dated 10.05.2012-131 and consequently direct the respondents to settle the petitioner's entire Employees' Provident Fund amount including the PF bank's contribution in Index No.1478958 with applicable interest as on date.

2. Learned counsel for the petitioner submitted 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 filed writ petition in W.P.No.14304 of 2005. This being so, the petitioner has sent several representations to the respondents 2 & 3 to settle his entire EPF contributions. But, the same was not considered.

3. Learned counsel for the petitioner further submitted that the petitioner has filed a writ petition before this Court in W.P.No.25672 of 2011 to direct the respondents 2 & 3 to consider the representation to settle his entire EPF contributions. This Court vide its order dated 22.12.2011 had disposed of the same with a direction to the petitioner to approach the third respondent within a period of two weeks from the date of receipt of a copy of this order, comply with the formalities and submit the relevant forms to the third respondent and after complying with the formalities, the third



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respondent was directed to take appropriate steps and finalise the issue, thereafter within a period of two months.

4. Learned counsel for the petitioner would further submit that after receipt of the aforesaid order, the petitioner has approached the third respondent with a request to settle his entire EPF contribution along with interest. The third respondent herein issued a Banker Cheque dated 02.03.2012 for the amount of Rs.30,950/- in his favour without furnishing the proper particulars of the statement of accounts of the said EPF amount. As per the statement of Account for the Half-Year ended 31.03.2001, the Bank contribution is Rs.91,263/- and the petitioner's contribution is Rs.71,724/- and the total EPF amount comes to Rs.1,62,987. Hence, the petitioner is entitled for an interest from 2001 to 02.03.2012. But, the respondents have paid only a sum of Rs.30,950/-. Therefore, the petitioner has filed a contempt petition before this Court in Contempt Petition No.808 of 2012.

5. Learned counsel for the petitioner would further submit that on receipt of the aforesaid contempt notice from the petitioner, the respondents have sent a letter dated 10.05.2012 by stating that “since the member has



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been dismissed on 07.03.2005, the PF Bank's contribution has been forfeited for which he is not eligible". Thereafter, the petitioner has received another sum of Rs.72,417/- on 21.07.2012 and the respondents have paid a total sum of Rs.1,02,979/- in regard to his contribution and refused to pay the bank's contribution. Therefore, on 24.07.2012, this Court granted liberty to the petitioner to challenge the aforesaid letter dated 10.05.2012 and closed the contempt petition on 24.07.2012. Challenging the letter 10.05.2012, the petitioner has come forward with the present writ petition.

6. Learned senior counsel appearing for the respondents would submit that the correct provision of law applicable to the petitioner is Rule 24 of the State Bank of India Employee's Provident Fund Rules. As far as the claim for the Provident Fund is concerned, the State Bank of India provides a Scheme of Contributory Provident Fund for its employees in pursuance of clause (O) of Sub-Section 50 of State Bank of India Act, 1955. The rules were framed in terms of the Provident Fund Act XIX of 1925. Hence, the petitioner is covered under the State Bank of India Employee's Provident Fund Rules.

7. Learned senior counsel appearing for the respondents would further



submitted that the writ petition is liable to be dismissed on the ground of delay and laches. The cause of action actually arose soon after dismissal of the petitioner from services of the bank on 07.03.2005. However, the petitioner chose to send a letter only on 04.11.2012 based on order dated 22.12.2011 in Writ Petition No.25672/2011. The said writ petition was filed to overcome the delay.

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

9. At this juncture, it is pertinent to extract the letter dated 10.05.2012 passed by the fourth respondent:

“with reference to your notice dated 22.03.2012 in respect of Mr.M.Ganesan, dismissed from Bank's service on 07.03.2005 we have to advise as under:-

v. An amount of Rs.30,950/- in PF Member Contribution has already been refunded to the member out of the eligible amount of Rs.1,02,979/- which includes interest;

vi. For the remaining refundable amount of PF Member Contribution of Rs.72,092/-, steps have been taken with the competent authorities ie., CAO, Kolkatta seeking their approval for disposal;



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vii. *Since the member has been dismissed on 07.03.2005 the PF Bank's Contribution has been forfeited for which he is not eligible.*

viii. *On approval from appropriate authorities, the remaining eligible amount of Rs.72,029/- would be settled immediately."*

9. The petitioner is not entitled for the relief because of his dismissal from service on 07.03.2005 in terms of Rule 24 of State Bank of India Employees' Provident Fund Rules which states as follows:

"If any member shall be dismissed from the service of the Bank for any fault or other cause justifying dismissal, he shall not be entitled to receive, unless permitted to do so by the Trustees, the sums contributed by the Bank to his provident fund account, or any interest credited to that account on the sum so contributed."

10. In view of the above factual matrix of the case and the order passed in W.P.No.21354 of 2012, confirming the order of "Dismissal from Service without Notice", the letter in PPG/CHE dated 10.05.2012-131 passed by the fourth respondent, which is challenged in the present writ petition does not warrant any interference by this Court and the same is hereby confirmed.

11. In the result, 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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