IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.02.2024

PRONOUNCED ON : 08.08.2024

CORAM:

**THE HON'BLE Dr. JUSTICE D.NAGARJUN**

W.P.No.27638 of 2015

Vinodh B Rao ...Petitioner

versus

The State Bank of India
Represented by its Chairman,
Circle Top House, 16 College Road,
Nungambakkam,
Chennai 600006. ...Respondent.

**Prayer:** This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the respondent herein dated 08.01.2015 OAD/2015/440 and quash the same and direct the respondent to release the petitioner's contribution towards provident fund with interest accrued (subject to actual computation) to the petitioner within a specified time frame.

For Petitioner : Mr.P.J. Sri Ganesh

For Respondent : M/s.K.Chandrasekaran

**ORDER**

This petition is filed seeking Writ of certiorarified mandamus to quash the impugned orders passed by the respondent herein dated 08.01.2015 OAD/2015/440 and consequently direct the respondent to release the petitioner's contribution towards petitioner's provident fund with accrued interest (Subject to actual computation) within a specific time frame.

2. The facts in brief as per the affidavit are as under:

The petitioner worked in the respondent's State Bank of India as Class I Officer from 1971 till August 2000. When he was working as a Chief Manager Nostro Reconciliation Cell Chennai L.H.O, he was placed under suspension in the year 2000 on the allegations of certain irregularities and initiated disciplinary proceedings against him. In the month of March 2003, he was dismissed from service as per the orders dated 27.03.2003.

3. As per the service rules of the respondent Bank, if an employee was terminated, he is entitled to receive his contribution towards

provident fund. The petitioner was informed by the respondent Bank that his contribution towards provident fund has not been computed and it will be paid after computation was completed. The petitioner was not due any amount to the respondent Bank, as he has paid all the loans including personal loan, vehicle loan, consumer loan, housing term loan etc by the year 2004. In addition to that in the year 2001, he has paid a sum of Rs.13,50,000/- on his volition towards irregularities allegedly committed by him.

4. The petitioner has addressed number of letters seeking for refund of his contributions towards provident fund. As there was no response, he has issued legal notice dated 17.11.2010. The respondent Bank has issued a reply dated 08.01.2015 stating that petitioner liability was crystalised by the disciplinary authority to Rs.17.52 lakhs being Rs.12.95 lakhs towards principal amount balance as interest, which amounts were confirmed by appellate authority and stated further that only after making such payment, the respondent Bank will consider releasing the contribution of the petitioner towards provident fund.

5. Aggrieved by the non-disbursement of the petitioner's contribution towards provident fund, the petitioner has filed this Writ Petition originally seeking Writ of Mandamus directing the respondent to release the petitioner's contribution towards provident fund. Subsequently, during the pendency of the Writ Petition, the petitioner got amended the prayer for grant of certiorarified mandamus to quash the proceedings dated 08.01.2015 and to consequently direct the respondent to release the petitioner's contribution towards provident fund.

6. It is submitted by the learned counsel for the petitioner that when an employee is dismissed from service, he is entitled to receive his contribution towards provident fund with interest thereon and not the contribution by the Bank unless permitted to do so by the Trustees. It is also further submitted that when a member is dismissed from service under liability incurred by him to the Bank, the amount contributed by the Bank on the employee's provident fund account and interest thereon shall be paid by the Trustees to the Bank. He has further submitted that the petitioner has cleared all the dues of the Bank in the year 2004 itself

and he has also paid on his own a sum of Rs.13,50,000/- towards alleged irregularities and thereby the petitioner has no dues to the respondent Bank. It is further submitted that even if amount has to be paid to the petitioner by the respondent Bank, it has to be paid by the trustees of the provident fund from the contribution made by the respondent Bank into the provident fund account of the petitioner. Therefore, it is submitted that non release of the petitioner's contribution of about 10.00 lakhs along with interest is erroneous and therefore sought for issuance of suitable directions.

7. Learned counsel for the respondent has filed counter affidavit which runs as under:

The petitioner has committed various irregularities while working as Chief Manager, Personal Banking Division, T-Nagar Branch, Chennai during the period from July 1997 to 2000 thereby he was placed under suspension on 05.08.2000. Disciplinary proceedings were initiated and charge sheet was issued on 06.10.2001. An enquiry was conducted and 30 charges framed against him. The enquiry officer on completion of enquiry has held that 30 charges against the petitioner were proved. On which appointing authority has passed penalty of dismissal from service as per proceedings dated 27.03.2000. Though the petitioner has filed appeal, same was also dismissed on 11.11.2003.

8. It is further mentioned in the counter affidavit that the petitioner has misappropriated an amount of Rs.12,95,108/-. The bank has applied interest at the rate of 16.75% per annum until 18.01.2001 and the interest arrived at is Rs.1,90,894.72/-. The petitioner has in all repaid a sum of Rs.13,500,00/- towards part payment of misappropriated amount in the bank and failed to pay the balance of Rs.1,36,000/- which is payable with interest with effect from 19.01.2001. The State Bank of India employees provident fund statement shows lien marked on the liabilities of the petitioner towards the Bank. The petitioner has withdrawn provident fund amount on three earlier occasions, thereby, balance of provident fund in the account of the petitioner is Rs.1,35,353/- towards contribution of the petitioner. It is also mentioned further that in case, if a member is dismissed from service, if member is liable to the bank, the same shall be paid by the trustees of the bank, out the sum standing to the credit of the members account.

9. Heard both sides and perused the records.

10. The petitioner was working as chief Manager of the respondent bank when he was working at T.Nagar Branch, during the period July 1997 to July 2000. He was placed under suspension, on the ground that he committed certain irregularities, charge sheet was issued, enquiry was initiated and ultimately he was dismissed from service.

11. The petitioner has demanded the respondent Bank for return of his contribution towards provident fund. According to the petitioner, he has contributed about Rs.10,00,000/- to the provident fund account whereas the respondent has submitted that out of the amount contributed, the petitioner during his service has withdrawn a part of the amount on three occasions and thereby an amount of Rs.1,35,353/- alone is left in his provident fund account. It is the case of the petitioner that even if the petitioner is dismissed from service, still he is entitled to get the provident fund amount contribution made by the petitioner and it is further case of the petitioner that as per provident fund rules, in case, if a member is dismissed from service with liability to the bank, the amount contributed

by the bank to his provident fund account and interest accrued thereon shall be paid by the trustees to the bank.

12. It is the contention of the respondent Bank that out of Rs.14,86,008/-, the petitioner was paid a sum of Rs.13,50,000/- leaving balance of Rs.1,36,000/- and that the petitioner has to pay the said amount along with interest. According to the learned counsel for the petitioner he has no due to be paid, all the loans were discharged by him and even if any amount is left over, it is to be paid out of the provident fund accumulations made by the bank in the account of the petitioner.

13. As per Chapter 22 of the respondent bank provident fund rules, a member is dismissed under the liability incurred by him to the bank, the amount contributed by the bank on his account to the provident fund, the interest accrued thereon shall be paid by the trustees to the bank. That means. if this provision is taken into consideration even if the petitioner is due any amount to the bank, the said amount has to be paid from the provident fund account of the petitioner out of the contribution made by the bank along with the interest accrued over it.

That means, the contributions made by the respondent bank can be utilised for the purpose of discharging the loan of the petitioner due to bank and the contribution made by the petitioner shall not be utilised for payment of loans.

14. Rule 24 of the State Bank of India Employees Provident Fund Rules, 1955 runs as under:

> *"Rule 24. 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 sums so contributed.*
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> *Provided that when any member is so dismissed, any amount due under a liability incurred by the member to the Bank (not exceeding in any case the sums so contributed by the Bank and interest thereon ) shall be paid by the Trustees to the Bank out the sum standing to the credit of the member's account."*

15. In view of the discussions made above, it is clear that the amount accrued in the provident fund account of the petitioner, the contributions made by the petitioner are required to be returned to the petitioner and if the petitioner is due any amount to the bank, the said amount has to be paid by following procedure mentioned in the provisio Rule 24 of the State Bank of India Employees Provident Fund Rules. Basing on which if any amount is due any liability incurred by a member to the bank, it shall by paid by the trustees out of the sum standing to the credit of the members account contributed by the Bank

16. In view of the discussions made above, this Writ Petition is allowed directing the respondent to release the petitioner's contribution towards provident fund with interest accrued to the petitioner within a period of eight weeks from the date of receipt of copy of this order. No costs.

08.08.2024

Index : Yes / No
Speaking/Non-speaking Order
Neutral Citations: Yes/No
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To

The State Bank of India
Represented by its Chairman,
Circle Top House, 16 College Road,
Nungambakkam,
Chennai 600006.

**Dr.D.NAGARJUN, J.**
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Pre-delivery Order.
W.P.No.27638 of 2015

08.08.2024