



W.P.No.13333 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.13333 of 2019

P.G.Venkatesan

... Petitioner

Vs.

1. The Deputy Chief Labour Commissioner (Central)
Office of the Deputy Chief labour Commissioner,
A Wing 5th Floor, Shastri Bhaven,
No.26, Haddows Road, Chennai -6.
2. The Collector,
Chennai – 600 001.
3. The Vice-President -HR,
Lakshmi Vilas Bank,
No.4, Sardar Patel Road,
Guindy, Chennai – 600 032.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to issue revenue recovery certificate to recover the amount computed in C.P.No.46 of 2016 dated 14.07.2017 from the third respondent pursuant to the application of the petitioner dated 11.09.2018 filed under Section 33 (C) (1) of the I.D.Act and consequently direct the second respondent to recover the amount as per the revenue recovery certificate and pay the same to the petitioner.



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For petitioner	:	Mr.Balan Haridas
For R1	:	No appearance
For R2	:	Mr.R.U.Dinesh Rajkumar Additional Government Pleader
For R3	:	Mr.Anand Gopalan

ORDER

This writ petition is filed seeking for issue revenue recovery certificate to recover the amount computed in C.P.No.46 of 2016 dated 14.07.2017 from the third respondent pursuant to the application of the petitioner dated 11.09.2018 filed under Section 33 (C) (1) of the I.D.Act and consequently direct the second respondent to recover the amount as per the revenue recovery certificate and pay the same to the petitioner.

2. The petitioner joined the third respondent Bank as a Peon and was promoted as Clerk. He was placed under suspension and subsequently, he was dismissed from service on 28.09.2004. He has raised industrial dispute in I.D.No.30 of 2006 and the same was allowed directing the third respondent Bank to reinstate the petitioner with continuity of service and all other attendant benefits. The said orders of the Labour Court were challenged in W.P.(MD).No.6766 of 2007 before the Madurai Bench of this



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Court and stay was granted. Subsequently, the petitioner filed 17 B petition and this Court by order dated 06.08.2007 directed the third respondent Bank to pay a sum of Rs.10,300/- per month under Section 17 B of the I.D.Act, 1942 and further, directed the Bank to deposit Rs.4,00,000/- in a separate account with a normal banking interest for any fixed deposit at current rate quarterly. Thereafter, W.P.(MD).No.6766 of 2007 was dismissed on 14.03.2006, confirming the award passed in I.D.No.30 of 2006. Further, the third respondent Bank preferred W.A.(MD).No. 1293 of 2016 and the said writ appeal was also dismissed on 07.12.2017.

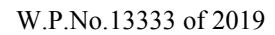
3. The petitioner had filed C.P.No.46 of 2016 claiming Rs.34,70,580/-. The said C.P. was ordered on 14.07.2017 directing the third respondent Bank to pay Rs.34,70,580/- with interest at the rate of 7.5% per annum from 06.10.2016. The petitioner has also filed an application under Section 33 (C) (1) of the I.D.Act, 1947 on 11.09.2018 before the Deputy Chief Commissioner (Central). The third respondent Bank by letter dated 26.02.2018 agreed to pay the computed amount in C.P.No.46 of 2016, viz., 34,70,580 with interest of Rs.3,63,697.76/- and in toto Rs.38,34,277.76/-



However, the third respondent Bank has taken a plea that the Bank has to pay only Rs.18,92,330.91/-, after deducting the amounts already paid towards 17 B wages, amount paid during suspension period and also amount paid by way of interest on the date of deposit of Rs.4,50,000/-, thereby, the Bank has deducted Rs.19,41,946.85/- and transferred an amount of Rs.38,34,277.76/-.

4. The petitioner filed rejoinder dated 03.12.2018 before the first respondent and when the matter was posted for hearing on 07.02.2019, the first respondent was offensive towards the petitioner stating that the third respondent Bank has paid the amount due to the petitioner and while saying so the first respondent has closed the proceedings abruptly. Aggrieved by the closure of the proceedings, the petitioner has filed this writ petition.

5. The learned counsel for the third respondent submitted that the first respondent may be directed to hear or consider the reply that may be given by the third respondent Bank before passing orders. The learned counsel for the third respondent Bank further submitted that the petitioner has to pay towards TDS, provident fund contribution, staff clean loan



6. Once orders have been passed in C.P.46 of 2017 dated 14.07.2017 holding that the third respondent has to pay an amount of Rs.34,70,580/-, the first respondent is bound to issue certificate in respect of the said amount. It is submitted by the learned counsel for the petitioner that the third respondent Bank issued a letter dated 26.02.2018 agreeing to pay the amount computed in C.P.No.46 of 2016, viz., 34,70,580/- along with an interest of Rs.3,63,697.76/- in total Rs.38,34,277.76/- and now cannot take a different plea.

7. It is submitted by the learned counsel for the petitioner that deduction towards TDS, PF etc., were not raised in the C.P. and in case the petitioner has to pay the said amount to the third respondent, then the third respondent has to initiate proceedings separately and cannot seek for such grants when an application is filed under 33 (C) (1).

8. Heard both sides and perused the materials available on record.



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9. Issuance of certificate for recovery of amount computed in C.P.No.46 of 2016 dated 14.07.2017 is the prerogative of the first respondent. The question is after passing of the orders in C.P.46 of 2016, whether third respondent Bank can take the defense of deducting some amounts, which is alleged to be paid by the petitioner to the third respondent Bank can not be decided in this writ petition.

10. Be that as it may, this Court is of the opinion that the first respondent was not expected to close the proceedings abruptly. He shall pass speaking orders under Section 33 C (i) and has to issue certificate in respect of the amount due by the third respondent in favour of the petitioner. Closure of proceedings without passing speaking orders is contrary to the proceedings. Accordingly, this Court is inclined to pass orders as sought for by the petitioner.

11. Accordingly, this writ petition is allowed directing the first respondent to follow the procedure contemplated under Section 33 C (1)



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scrupulously after hearing both parties and pass orders including issuance of certificate in respect of amount due to the petitioner as quickly as possible at any rate not later than four weeks from the date of receipt of a copy of this order. No costs.

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Internet	:	Yes/No
Index	:	Yes/No
Citation	:	Yes/No



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Dr.D.NAGARJUN,J.

vca

To,

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