



W.A.No.2619 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.2619 of 2022

A.Manoharan

... Appellant

Vs.

1. The Chairman and Managing Director,
Central Bank of India, Central Office at
Chandermukhi Buildings, Nariman Point,
Mumbai-21, Maharashtra State.
2. Regional Manager cum Disciplinary Authority,
Central Bank of India, Regional Office
at No.14/15, Variety Hall Road,
Coimbatore 641 001, Coimbatore District.
4. Assistant General Manager/Deputy General Manager,
Central Bank of India, Regional Office
at No.14/15, Variety Hall Road,
Coimbatore 641 001, Coimbatore District.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the judgment dated 11.07.2022 in W.P.No.12000/2015 of the learned Judge and consequently, allow the W.P.No.12000 of 2015 as prayed for.



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For Appellant : Mr. A.S.Vijayaragavan

WEB COPY For Respondents : Mr. P.Raghunathan

JUDGMENT

(Order of the Court was made by D.KRISHNAKUMAR, J.)

This intra court appeal has been filed to set aside the order passed by the learned Single Judge in W.P.No.12000/2015, dated 11.07.2022, in and by which, his claim " *to quash the impugned letter of the respondent dated 30.01.2015, denying to pay the arrears for dismissal period, and also to direct the respondent concerned to pay the salary due for the period from 17.10.1986 to 13.11.1990 with annual and periodical increments* " was dismissed.

2. The brief facts leading to the filing of the writ appeal is as follows.

The appellant was appointed in the Central Bank of India on 01.08.1983 as Clerk cum Cashier and he belonged to Schedule Caste Community. During his service, an enquiry was conducted regarding the genuineness of the Community Certificate and after enquiry, he was dismissed from service on 17.10.1986. As against the above order, the appellant filed W.P.No.11483/1986, wherein, this court, vide order dated



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02.11.1990, has set aside the above dismissal order; and directed the respondent concerned to conduct the enquiry afresh and complete the same within two months and to pass order within one month thereafter; and also directed the respondent to reinstate the appellant within two weeks, without back wages, which will abide by the decision of the first respondent, after receiving the report from the District Collector. Pursuant to the order of the writ court, the appellant was reinstated into service on 14.11.1990 and was also given promotions, as and when they were due.

2.1. The District Collector, Periyar District, vide order dated 07.03.1991, held that the appellant is not belonged to Hindu Adi-dravidar community. As against the above order, the appellant filed W.P.No.3654/1991 to quash the above order dated 7.3.1991. The said writ petition was disposed of on 14.11.1998, by setting aside the above order and also directing the District Collector, Periyar District to conduct enquiry afresh, after affording opportunity to the appellants. In the meanwhile, the petitioner was not paid the arrears of salary for the dismissal period from 17.10.1986 to 13.11.1990.



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WEB COPY 2.2. Pursuant to the order of the writ court in W.P.No.3654/1991, dated 07.03.1991, the District Level Vigilance/ Scrutiny Committee, vide order dated 72829/98/E.Ka, dated 11.01.2002, has given findings that the appellant is not belonged to Schedule Caste Community, thereby cancelled the community certificate issued to him. Therefore, the appellant filed Statutory Appeal before the department, however stay was not granted. Further, a show cause notice was issued on 22.01.2002 to the appellant as to why his service should not be terminated, in view of the cancellation of his community certificate.

2.3. In such circumstances, the appellant filed W.P.No.2452/2002 to set aside the above order passed by the District Level Scrutiny Committee, dated 11.01.2002, cancelling his Community Certificate and the same was allowed by this court on 06.03.2002, with a direction to decide the matter by the proper Committee with full strength. Finally, the District Level Scrutiny Committee consisting three members, Erode held that the appellant belonged to Hindu Adidraavidar Community, vide order dated 29.07.2006 and the



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community certificate issued in favour of the appellant are valid and genuine.

2.4. Subsequently, the appellant made a request to the respondents on 24.09.2014 claiming the salary arrears for the dismissal period from 17.10.1986 to 13.11.1990. However, vide order dated 30.01.2015, the respondent bank has denied to pay the arrears, stating that there was no direction by the court for payment of such arrears of salary. Subsequently, the appellant retired from service on 28.02.2015. As against the denial of arrears of salary, dated 30.01.2015, the appellant filed the writ petition in W.P.No.12000/2015. The said writ petition was dismissed, vide order dated 11.07.2022, on the ground that, the appellant was reinstated into service on 14.11.1990, however, he has not pursued his remedy immediately and his representation was submitted only in the year 2014, after a lapse of 8 years. Hence, applying the principles 'no work no pay', he is not entitled to get the arrears of salary. The above order passed by the learned Single Judge is impugned herein.

3. The learned counsel for the appellant submitted that, though the



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appellant was reinstated into service, as per the direction of this court in W.P.No.11483/1986, dated 02.11.1990, he was denied to pay the arrears of salary for the period from 17.10.1986 to 13.11.1990. Further, as against the final order passed by the District Level Scrutiny Committee, Erode, dated 29.07.2006, holding that the appellant belonged to Hindu Adidraavidar Community, the respondents have not filed any appeal and hence, the above order dated 29.07.2006 attained finality. In such circumstances, the appellant is entitled for arrears of salary for the above said period.

3.1. The learned counsel for the appellant also submitted that, the learned Single Judge, vide order dated 02.11.1990 passed in W.P.No.11483/1986 has clearly held that the appellant shall be reinstated into service, but the payment of backwages will abide by the decision of the first respondent, after receiving the report of the Collector. But, after passing of the above final order, dated 29.07.2006, the first respondent has not taken any decision to grant the arrears of salary for the period from 17.10.1986 to 13.11.1990. Despite several requests made by the appellant, the respondent bank has not considered to settle the arrears of salary.

3.2. The learned counsel further submitted that, the learned Single



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Judge, while passing the impugned order, has not taken into consideration the earlier order passed by this court in W.P.No.11483/ 1986, and the principles of 'no work no pay' will not apply to the case of the appellant, as he was kept away from service from rendering duty by the act of the respondent. Hence the order of the writ court is liable to be set aside.

4. The learned counsel appearing for the respondents strongly objected to the contentions raised by the appellant mainly on the ground that the appellant was terminated from service on 17.10.1986 and he was reinstated into service on 14.11.1990. Subsequently, he retired from service on superannuation on 28.02.2015. Further, after passing of orders by the District Level Scrutiny Committee, dated 29.07.2006, the appellant made representation only on 24.09.2014 seeking arrears of salary, which shows that there was a considerable delay on the part of the appellant. Therefore, considering all the above, the learned Single Judge has rightly dismissed the writ petition and the same need not be interfered with.

5. Heard the learned counsel for the appellant and the learned counsel



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for the respondents and also we have perused the materials on record.

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6. Admittedly, as against the order of dismissal from service, dated 17.10.1986 passed by the respondents, the appellant filed W.P.No.11483/1986 and the learned Single, vide order dated 02.11.1990 has directed the District Collector, Periyar District to conduct enquiry afresh and file a report to the first respondent and after receipt of the report from the District Collector, the first respondent shall pass orders, within one month from the date of the report. Further, the learned Judge, specifically ordered that " in the meanwhile, the petitioner shall be reinstated in service, ***but he shall not be entitled to the payment of backwages, which will abide by the decision of the first respondent, after receiving the report of the Collector.*** In such circumstances, the order of the writ court in W.P.No.11483/1986, dated 2.11.1990 clearly shows that the appellant is entitled for backwages, subject to the decision of the first respondent, after receipt of the report from the District Scrutiny Committee.

7. The genuineness of the community certificate produced by the



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appellant was decided on 29.07.2006 by the District Scrutiny Committee, holding that the appellant belonged to Adi Dravidar Community and the above order has become final. Therefore, immediately after receipt of the above order, the respondents ought to have decided the issue with regard to the payment of back wages to the appellant, as per the direction of this court in the earlier writ petition in W.P.No.11483/1986, dated 02.11.1990, however, they have not done so. The above facts clearly shows that the delay is not only on the part of the appellant in making representation belatedly, but also on the side of the respondents by not deciding the issue. Further, the respondents have not given any convincing reason for rejecting the claim of the appellant to pay the back wages.

8. It is contended by the appellant that, before the representation dated 24.09.2014, he made several representation seeking back wages for the dismissal period, however, it was not considered by the bank. But, there is no material before this court to prove the above said contention. Therefore, considering the facts and circumstances of the case and also taking into account the delay on the part of the appellant in making



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representation to the bank, we inclined to grant only 25% of the back wages for the non working period from 17.10.1986 to 13.11.1990, without any interest. To that extent, the order of the writ court is liable to be interfered with.

9. Accordingly, the appellant is entitled to the back wages at 25% alone for the non working period (dismissal period) from 17.10.1986 to 13.11.1990, without any interest. The respondent/bank is directed to pay the back wages, as stated supra, within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, this writ appeal is disposed of. No costs. Consequently, the CMP No.12767/2024 (amendment petition) is closed.

(D.K.K.J.) (K.B.J.)

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Internet: Yes/No
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To



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