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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3430 of 2019

C.Sekar

... Petitioner

Vs.

1.The General Manager,
Barath Sanchar Nizam Limited,
Salem – 636 007.

2.The Chief General Manager,
M/s Barath Sanchar Nizam Limited,
Quality Assurances and Inspection Circle,
Residency Road, Jabalpur – 482 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorarified mandamus, calling for records relating to proceedings of the second respondent made in No.TD/AG-1202/HBA/CS dated at J.B.P. 7.2.2018 received by the petitioner on 05.03.2018, to quash the same and to consequently direct the 1st and 2nd respondents to forwith return the original documents of the petitioner's property.



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For Petitioner : Mr.L.Chandrakumar
For Respondents : Mrs.Renuka Shankar

ORDER

The proceedings dated 07.02.2018 issued by the 2nd respondent requesting the petitioner to deposit penal interest to a sum of Rs.72,218/- by way of demand draft in favour of AO(cash) QA & Inspection Circle, Jabalpur is under challenge in the present writ proceedings.

2. The writ petitioner joined as Postal Clerk in the year 1973 in the then P & T Department. The petitioner had been promoted up to the level of Deputy General Manager and retired from service on 31.03.2015, on attaining the age of superannuation. The petitioner had applied for house building advance to a sum of Rs.4,50,000/- in two instalments during 1999 for construction of house. The entire house building advance amount to a sum of Rs.4,50,000/- along with the total interest of Rs.3,17,757/- at 11% interest had been fully recovered from



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the salary and DCRG dues of the petitioner. Finally, the department informed the petitioner that there was a shortfall to a sum of Rs.2194/-, which was also remitted by the petitioner on 01.12.2017. While so, the impugned order has been passed only in the year 2018, after a lapse of 2 and a half years from the date of retirement of the writ petitioner from the Department.

3. Mr.L.Chandrakumar, learned counsel for the petitioner would submit that the order dated 20.03.2017 issued by the Accounts Officer(Pay), Jabalpur would indicate that the shortfall amount to a sum of Rs.2194/- is to be paid. The petitioner in his representation dated 24.01.2018 has categorically stated that the principal amount of Rs.4,50,000/- and total interest of Rs.3,17,757/- at 11% interest had been fully recovered from the salary and DCRG of the petitioner. However, the petitioner has paid the shortfall interest of Rs.2194/- dated 01.12.2017 to the respondents.

4. That being the categorical reply given by the petitioner, the



2nd respondent without considering the fact that the Principal loan amount along with interest had been already recovered, passed the impugned order stating that the petitioner has to deposit penal interest of Rs.72,218/-.

5. The learned counsel for the petitioner would further submit that the payment details and the documents in respect of the insurance amount of the petitioner for the period from 01.09.2000 to 19.06.2005 are not traceable in the respondents Office. However, the original Mortgage documents are available. Since insurance premium copies for the period from 01.09.2000 to 19.06.2005 are not traceable, the respondents have issued the impugned order imposing penal interest and therefore, the impugned order is to set aside.

6. The learned Standing Counsel appearing on behalf of the respondents would oppose by stating that the penal interest is calculated as per the Rules and therefore, there is no infirmity.



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7. However, this Court is of the considered opinion that the insurance premium copies were not available at the instance of the respondents and thereafter, charging penal interest after a lapse of 2 and a half years from the date of retirement of the petitioner is unacceptable. More so, the loan dues were recovered from the salary of the petitioner by the Department from the monthly salary of the petitioner along with interest.

8. That being so, now the department cannot recover penal interest to cover up their lapses committed by not maintaining the insurance premium copies for the period from 2000 to 2005. Thus, the petitioner is entitled to succeed and the impugned order passed by the 2nd respondent in proceedings dated 07.02.2018 is quashed. Further, the respondents are directed to return the original documents relating to the property of the petitioner within a period of six (6) weeks from the date of receipt of a copy of this order.



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Accordingly, the Writ Petition stands allowed. No costs.

18.01.2024

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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

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S.M.SUBRAMANIAM, J.

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