BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.3309 of 2022

G.Ramakrishnan ... Petitioner

Vs.

1.The General Manager,
Bank of India,
Star House C-5, G Block,
Bandra-Kurla Complex,
Bandra East,
Mumbai-400 051.

2.The Zonal Manager,
Bank of India,
Coimbatore Zona Office,
Star House,
234, Oppanakara Street,
Coimbatore-641 001.

3.The Deputy Zonal Manager,
Bank of India,
Coimbatore Zonal Office,
Star House,
234, Oppanakara Street,
Coimbatore-641 001. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records relating to the impugned communication of third respondent bearing Ref.No.Zo:CBE HRD:KC:2021-22-1694, dated 27.12.2021 and quash the same as illegal consequently direct the respondents to release the petitioner's forfeited gratuity amount of Rs.7,50,926/- along with applicable rate of interest.

For Petitioner : Mr.S.Siva Ilayaraja

For Respondents : Mr.B.Rajesh Saravan

ORDER

The instant writ petition has been filed by a retired employee of the Bank of India challenging an order passed by them on 27.12.2021, wherein a sum of Rs.4,00,926/- has been recovered as an interest towards retention of a sum of Rs.3,50,000/- by the writ petitioner for the period between 17.08.2009 and 31.01.2021.

2. The petitioner, who was working as an employee in the respondent Bank had suffered an order of compulsory retirement on 22.01.2015. The said order was put to challenge before the High Court of Karnataka at Bengaluru in W.P.No.19572 of 2015. The learned Single Judge of the High Court of Karnataka was pleased to allow the writ petition on 03.07.2015 by substituting the punishment of compulsory retirement with the punishment of withholding of three increments with cumulative effect. However, the said order was put to challenge by the Bank in W.A.No.2406 of 2015.

3. Pending writ appeal, the parties have entered into a compromise, wherein, the Bank has agreed to reinstate the petitioner on payment of 25% of backwages instead of 50% as directed by the learned Single Judge.

4. After being reinstated, the petitioner had worked till 31.01.2021 and attained superannuation. After attaining superannuation, the petitioner has submitted a claim petition, claiming gratuity and based upon the claim petition, the entire gratuity amount was released by the Bank. However, on 27.12.2021, the present impugned order came to be passed stating that, on passing of the order of compulsory retirement, a gratuity amount of Rs.3,50,000/- was already paid to the writ petitioner. This amount was not repaid by the writ petitioner on his reinstatement. He had retained the said amount till his retirement and therefore, the Bank had claimed an interest of Rs.4,00,926/- and the said amount was deducted from the gratuity paid to the writ petitioner. This order is under challenge in the present writ petition.

5. According to the learned Counsel appearing for the writ petitioner, on being reinstated, there was no demand from the Bank for refunding the gratuity amount of Rs.3,50,000/-. There was no suppression on his part in receiving the said amount. Even assuming that the Bank is entitled to get back the said amount of Rs.3,50,000/-, they ought not to have imposed an interest at the rate of 10%.

6. Per contra, the learned Counsel appearing for the Bank had contended that while the writ petitioner made a claim petition on his retirement for payment of gratuity, he had suppressed the fact that he had already received a sum of Rs.3,50,000/- on 17.08.2009. Hence, the present order has been passed for the illegal retention of a sum of Rs.3,50,000/- by the writ petitioner for the period between 17.08.2009 and 31.01.2021.

7. I have carefully considered the submissions made on either side and perused the materials available on record.

8. The petitioner had suffered an order of compulsory retirement on 17.08.2009 and he was paid a sum of Rs.3,50,000/- towards gratuity. Pursuant to the orders of the Hon'ble High Court of Karnataka, the petitioner was reinstated. On such reinstatement, the petitioner has not remitted back the sum of Rs.3,50,000/-, which was paid to him under the head of gratuity. These facts are not in dispute.

9. The petitioner had attained superannuation on 31.01.2021 and he has submitted a claim application on 02.01.2021 seeking gratuity. In the said application, the petitioner has not mentioned about the receipt of Rs.3,50,000/- on 17.08.2009. Therefore, it is clear that the petitioner had illegally retained a sum of Rs.3,50,000/- with him and he had suppressed the receipt of the said amount in his claim application submitted on 02.01.2021. Hence, the employer was right in imposing an interest upon the illegal retention on the gratuity amount. However, the Bank was not right in imposing interest at the rate of 10%.

10. Considering the above said facts, this Court is of the opinion that the petitioner is liable to pay interest at the rate of 6% interest for the period between 17.08.2009 and 31.01.2021.

11. The writ petition stands partly allowed to the effect that the rate of interest is reduced from 10% to 6% for the above said period. In other respects, the order impugned in the writ petition stands confirmed. There shall be no order as to costs.

06.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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R.VIJAYAKUMAR, J.

BTR

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