



W.P.(MD).No.6634 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.6634 of 2021

D.Sangilimuthu

...Petitioner

Vs.

Pudukottai District Central
Cooperative Bank Ltd.,
834-836, Keelaraja Veedhi,
Pudukottai-622 001.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to pay the gratuity as per the order passed by the Appellate Authority under the Payment of Gratuity Act in P.G. Appeal No.116/2017 dated 01.10.2018 with 10% statutory interest within a period stipulated by this Court by considering the representation dated 26.02.2021.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondent : Mr.P.R.Prithiviraj,
For D.Sadiq Raja



W.P.(MD).No.6634 of 2021

WEB COPY

ORDER

This writ petition has been filed seeking direction to the respondent to pay the gratuity as per the order passed by the Appellate Authority under the Payment of Gratuity Act in P.G. Appeal No.116/2017 dated 01.10.2018 with 10% statutory interest within a period stipulated by this Court by considering the representation dated 26.02.2021.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioner joined into services of the 3rd respondent Bank in the year 1994. While in service, he was placed under suspension, by an order dated 29.06.2005, a day before his date of superannuation, that is, 30.06.2005. Ultimately he was terminated from his services on 19.04.2008. He lastly worked as a Circle Supervisor. Under such circumstances, the petitioner filed a petition before the controlling authority under the Payment of Gratuity Act, 1982, since the gratuity eligible for the petitioner was not paid. However, the



W.P.(MD).No.6634 of 2021

WEB COPY

same came to be dismissed, against which the petitioner filed an appeal under Section 7(7) of the Payment of Gratuity Act. The appellate authority allowed the P.G.Appeal No.116 of 2017, by an order dated 01.10.2018, directing the respondent to pay gratuity of Rs.1,79,575/- (Rupees One Lakh Seventy Nine Thousand Five Hundred and Seventy Five only) along with 10% interest from 01.07.2005 till the date of disbursement of the gratuity amount. Despite the same, the respondent has not settled the gratuity to which the petitioner is entitled to. Several representations made by him in this regard and the last of which was made on 26.02.2021. Since the same was not considered by the respondent, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that even after a passage of six years from the date of allowing the P.G.Appeal No.116 of 2017 dated 01.10.2018 in favour of the petitioner, the petitioner's gratuity amount has not been disbursed by the respondent Bank. Hence, the matter having attained finality, the petitioner is entitled to receive the eligible amount and pressed for allowing the writ petition.



W.P.(MD).No.6634 of 2021

WEB COPY

4. Per contra, the learned counsel appearing for the respondent vehemently submitted that for the huge misappropriation which has been committed by the petitioner herein surcharge proceedings had been initiated against the petitioner by the respondent Bank. As a result of which, he was dismissed from service and an employee who had been dismissed from service is not entitled to claim gratuity and pressed for dismissal of the writ petition. However, this Court records the fact that the counter has not been filed by the respondent Bank.

5. Heard, the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and carefully perused the materials available on record.

6. This Court is of the considered view that the respondent Bank having not challenged the order passed by the appellate authority in P.G.Appeal No. 116 of 2017 dated 01.10.2018 in favour of the petitioner now cannot raise the issue of surcharge proceedings which has been initiated as against the petitioner, since more than six years has lapsed from the date of order in



W.P.(MD).No.6634 of 2021

P.G.Appeal No.116 of 2017, that is, from 01.10.2018. In view of the same, this Court direct the respondent Bank to consider the representation of the petitioner dated 26.02.2021 positively and comply with the order passed by the appellate authority dated 01.10.2018 within a period of four (4) weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is allowed. There shall be no order as to costs.

07.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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W.P.(MD).No.6634 of 2021

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.6634 of 2021

07.06.2024