



W.P.(MD)No.12528 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.12528 of 2021

&

W.M.P.(MD).No.9807 of 2021

V.Gopalakrishnan

... Petitioner

Vs.

1.The General Manager
Chennai Zonal Head
Zonal Office(Chennai)
Bank of Baroda
Baroda Pride,No.41, III floor
Luz Church Road, Mylapore
Chennai-600 004

2.The Assistant General Manager (RH) &
Competent Authority
Bank of Baroda
Regional Office (Madurai)
II Floor, Aparna Towers
Bye pass road, Ponmeni
Madurai-625 016



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3. The Inspector of Police
Vilakuthoon Police Station
Madurai City
Madurai

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records to the impugned orders passed by the 2nd respondent in his proceedings RO:MDU:HRM:06:1950 dated 12.11.2020 and in RO:MDU:VIG:07:07 dated 01.02.2021 and quash the same.

For Petitioner : Mr.B.Vijay Karthikeyan

For Respondents : Mr.MU.Prakash for R1 and 2

Mr.D.Sasikumar for R3

ORDER

This Writ Petition has been filed questioning the proceedings in RO:MDU:HRM:06:1950 dated 12.11.2020, whereby the petitioner was placed under suspension, while he was working as Single Window Operator in the respondents 1 and 2 bank. The said post of Single Window Operator was renamed as Business Associate. Questioning the said order dated 12.11.2020 and another order bearing RO:MDU:VIG:07:07 dated 01.02.2021, wherein the petitioner was called upon to submit his explanation,



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the petitioner filed the present Writ Petition.

2. When the matter is taken up for consideration, it is brought to the notice of this Court that the disciplinary proceedings initiated against the petitioner culminated into passing a final order dated 05.07.2022 imposing the punishment of compulsory retirement of the petitioner. In view of the same, practically the relief sought in this Writ Petition has become infructuous.

3. However, it is contended by the learned counsel for the petitioner that the subsistence allowance was not paid to the petitioner during the period of suspension and the impugned suspension order was issued by an incompetent authority. The basis for such contention is that the petitioner was initially appointed by the Deputy General Manager/Regional Head and the impugned suspension order came to be issued by the Assistant General Manager(RH and Competent Authority). Having taken note of the said contention this Court called upon the respondents to file their counter.



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4. The respondents today filed a counter affidavit and also placed before this Court the relevant rules governing the suspension and payment of subsistence allowance. In terms of the same, the disciplinary authorities or the competent authorities to suspend an employee in Vigilance cases is the Assistant General Manager (RH) & Competent Authority/ Assistant General Manager (RH) & Disciplinary Authority as the case may be.

5. In the light of the above, it is noticed that when the petitioner was initially appointed, the Regional Head was the Deputy General Manager and when the petitioner was placed under suspension the Regional Head is the Assistant General Manager. Therefore, there is a change of the Regional Head and therefore the competent authority also changed. In the said circumstance, the said ground raised is found to be having no substance.

6. In so far as non payment of subsistence allowance is concerned, learned counsel appearing for the respondents categorically submitted that the entire subsistence allowance that is payable to the petitioner in terms of the Rules governing the same was deposited into the bank account of the



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petitioner from time to time and there are no arrears and he also undertakes that in case if there are any arrears, the same would be deposited within a period of one week from the date of receipt of a copy of this order.

7. The further contention of the learned counsel for the petitioner that petitioner could not verify whether the entire subsistence allowance is credited to the bank account of the petitioner, as the bank account is freezed by the respondents bank and he is not permitted to operate the said account since the date of suspension. In so far as the freezing of the account of the petitioner is concerned, the same is stated to be pursuant to an order passed by concerned Police authorities/3rd respondent in connection with a crime registered against the petitioner. If that be the case, it is for the petitioner to work out his remedies for defreezing his account or atleast for withdrawal of subsistence allowance amount that was deposited. But for the reasons best known, the petitioner has not taken any steps as on date.

8. The subsistence allowance is the allowance for the sustenance of the employee placed under suspension for his livelihood, the same cannot be



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deprived of under any circumstances. If at all the 3rd respondent has got any claim by virtue of the crime registered against the petitioner, such claim can only be in respect of the amounts that were already in the account of the petitioner as on the date of freezing of such account. The subsistence allowance amount that was credited to the said account being the subsistence allowance cannot be subjected to such freezing orders.

9. In the light of the above, this Court does not find any justification for the 3rd respondent to extend the freezing of the account even in respect of the subsistence allowance that is payable to the petitioner and credited to the frozen Savings Account No.05550400000210, Bank of Baroda, Ponmeni Madurai Branch of the petitioner.

10. In the circumstances, the respondents are directed to permit the petitioner to withdraw the entire subsistence allowance that was deposited into the credit of the petitioner's account bearing Account No. 05550400000210, maintained with the Bank of Baroda, Ponmeni Madurai branch forthwith. On such withdrawal, if the petitioner is of the view that the



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said subsistence allowance was not deposited as per his entitlement in terms of the relevant rules, it is open for the petitioner to initiate appropriate steps.

With the above observations, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.03.2024.

NCC : Yes/No
Index : Yes/No
Internet : Yes
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MUMMINENI SUDHEER KUMAR, J.

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