



W.P.(MD) No.2173 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.2173 of 2018

A.Nambi

... Petitioner

/vs./

1.The Branch Manager,
State Bank of India,
No.15 East Car Street,
Nanguneri, Tirunelveli District.

2.The Branch Manager,
State Bank of India,
Pazhavor Branch,
Tirunelveli District.

3.The Regional Manager,
State Bank of India,
No.25, Swamy Nellaiyappar High Road,
Tirunelveli Nagar,
Tirunelveli, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st Respondent bank to pay the petitioner's gratuity amount of Rs.2,75,750/- (Rupees two lakh seventy five



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thousand seven hundred and fifty) along with interest credited on 29.09.2017 by his employer in his saving Account No.30840310864 and the same is put a hold by the Respondents bank within a stipulated period that may be fixed by this Court.

For Petitioner : Mr.G.Chandrasekar
For Respondents : Mr.P.Pethu Rajesh

ORDER

Heard the learned counsel on either side.

2.The petitioner has filed this writ petition for a Mandamus to direct the first respondent to pay the petitioner's gratuity amount of Rs.2,75,750/- along with interest credited on 29.09.2017 in his savings Bank Account No. 30840310864.

3.The case of the petitioner is that the petitioner was working as Guard in the Forest Department and had attained the age of superannuation and retired from service on 28.02.2014. It appears that the petitioner had borrowed amount of Rs.4,90,000/- from the respondent Bank on 21.06.2006 for purchase of a Tractor, but had failed to repay the amount. The account become NPA on 21.06.2007.



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4. Apart from the above, the petitioner had also taken educational loan in respect of which, the petitioner was in arrears. It appears that after the petitioner retired from service on 28.02.2014 from the Forest Department, the Forest Department had transferred a sum of Rs.2,75,750/- into the petitioner's account No.30840310864 on 29.09.2017. The aforesaid amount was unilaterally attached by the Bank towards educational loan taken by the petitioner.

5. The action of the respondents clearly violates the decision of the Hon'ble Supreme Court in ***Radhey Shyam Gupta Vs. Punjab National Bank and another*** reported in ***(2009) 1 SCC 376***, wherein it has been held as follows:

*“33. However, we are also of the view that having regard to proviso (g) to Section 60(1) of the Code, the High Court committed a jurisdictional error in directing that a portion of the decretal amount be satisfied from the fixed deposit receipts of the appellant held by the Bank. The High Court also erred in placing the onus on the appellant to produce the Matador in question for being auctioned for recovery of the decretal dues. In other words, the High Court erred in altering the decree of the trial Court in its revisional jurisdiction, particularly when the pension and gratuity of the appellant, which had been converted into fixed deposits, could not be attached under the provisions of the Code of Civil Procedure. The decision in *Jyothi Chit Fund* case has been considerably watered down by later decision which have been indicated in para 22 hereinbefore and it has been held that gratuity payable would not be liable to attachment for satisfaction of a court decree in view of proviso (g) to Section 60(1) of the code”*



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6.This view has also been followed by this Court in ***W.P.(MD) No.17838 of 2015 (A.Muthuiruvakkal Vs. The State Bank of India and others).***

7.In view of the above, there shall be a positive direction to the respondents to release the petitioner's gratuity amount credited to the petitioner's account together with interest credited on 29.09.2017 within a period of 30 days from the date of receipt of a copy of this order. This will be without prejudice to the rights of the respondents to recover the amount due from the petitioner in accordance with law.

8.The Writ Petition stands disposed of, accordingly. No costs.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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