



W.P(MD)No.19384 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.04.2025

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THE HONOURABLE MR. JUSTICE BATTU DEVANAND

W.P(MD)No.19384 of 2024

R.Govindasamy

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Collector Office Premises,
Virudhunagar,
Virudhunagar District.

2.The Deputy Registrar of Cooperative Societies,
Srivilliputtur Circle,
Andal Mela Mada Street,
Srivilliputtur,
Virudhunagar District.

3.The Deputy Registrar / Managing Director,
A-142-1337, The Srivilliputtur Co-operative
Urban Bank Limited,
233/80-81, North Car Street,
Srivilliputtur - 626125,
Virudhunagar District.

... Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 3rd respondent to disburse the petitioner's provident fund contribution amount of a sum of Rs.11,13,075/- together with interest in accordance with law by considering



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the petitioner's explanation dated 19.07.2024 within the time stipulated by this Court.

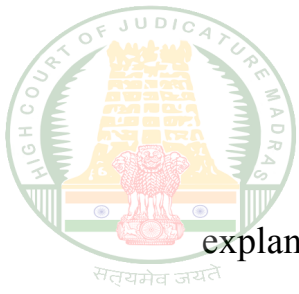
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For Petitioner : Mr.P.Mahendran
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and carefully examined the materials available on record.

2. The case of the petitioner is that the petitioner had joined service as a Clerk in the Co-operative Urban Bank Limited, Srivilliputtur, ie., the third respondent herein, in the year 1985 and thereafter promoted as Manager in the year 2005 and thereafter promoted as General Manager in 2008. He retired from service on attaining the age of superannuation on 31.05.2023. Before the retirement, he was suspended from service on 30.05.2023, alleging that he has sanctioned loan amounts to four persons who are all belonging to one family more fully exceeding the limits of their capacity and thus loss of Rs.1,00,000/- to the third respondent Bank. A charge memo was issued on 24.05.2023. The petitioner submitted



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WEB COPY explanation on 29.05.2023, denying the allegations. An enquiry officer was appointed and domestic enquiry was conducted. The enquiry officer submitted report on 16.08.2023 to the third respondent. Based on the same, the third respondent issued final order vide proceedings in Na.Ka.No. 1/2023/ Workmen dated 27.12.2023 stating that the charge leveled against the petitioner was proved and hence a sum of Rs.40,000/- being recovered from the retirement benefits of the petitioner. The suspension order has also been revoked and the suspension period was treated as period of duty vide proceedings of the third respondent dated 28.12.2023. In due compliance of the order, the petitioner paid an amount of Rs.40,000/- to the third respondent. After recovering the amount of Rs.40,000/- from the petitioner, the third respondent has ordered for payment of retirement benefits more fully payment of enhanced Earned Leave amount of Rs.9,27,255/- and also the sum of Rs.20,00,000/- being Gratuity payment on 23.01.2024. But the third respondent has not paid Provident Fund contributory amount to the petitioner. The petitioner made several representations to the third respondent to disburse the amount of Rs.11,13,075/- towards the Provident Fund Contribution. But the said representations are not considered. On 02.07.2024, the third respondent issued show cause notice informing that Provident Fund amount cannot be paid to him on the ground that since during his period of service he has not



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recovered the original loan amounts disbursed to various loanees and also not filed a case against one Radhakrishnan for recovery of amount.

3. Learned counsel for the petitioner submits that the Provident Fund amount has to be treated as personal property of the concerned employee and the same cannot be with held as per the settled proposition of law. He further submits that the Apex Court held that the Provident Fund amount will become a right of property in under Article 300A of the Constitution of India. In view of the same, the third respondent cannot with held the said amount without making disbursement to the petitioner.

4. On the other hand, Mr.Subbaraj, learned Special Government Pleader appearing for the respondent would submit that since the petitioner was allowed to retire from service he has paid with Gratuity and enhanced Earned Leave amount. However, his Provident Fund Contribution of Rs.11,13,075/- was not disbursed to him due to administrative reasons. In the meantime, several other irregularities also came to surface and it was found that 105 loans of various types issued during the tenure of the petitioner as General Manager, had become overdue and time barred causing a huge financial loss of Rs.13,29,069/- to the third respondent Bank. He further submits that these loans were issued during the tenure of



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the petitioner as General Manager, without properly assessing the repaying capacity of the borrower and even without identifying them properly. He further submits that if the petitioner cooperates with the employees of the third respondent Bank in identifying the borrowers and to initiate statutory action against them, then only the amount of Provident Fund kept pending in his name could be disbursed.

5. Having heard the arguments of the learned counsel on either side and on careful perusal of the materials available on record, it appears that the petitioner was kept under suspension before one day of his retirement date. Subsequently after completion of enquiry, the third respondent passed an order fixing the liability of Rs.40,000/- on the petitioner and accordingly the petitioner paid the said amount. Thereafter, the suspension order was revoked and the period of suspension was treated as period on duty vide proceedings of the third respondent dated 28.12.2023. Thereafter, the third respondent disbursed the payment of enhanced Earned Leave and Gratuity amount but withheld the Provident Fund amount. Originally, it is contended by the respondent in their counter that on administrative reasons, it is not disbursed. But subsequently, it is the stand of the respondents that due to the loss caused to the third respondent bank, for his negligence in granting irregular loans to several persons and as a General Manager, the



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petitioner failed to identify them, they withheld the payment of Provident Fund amount. They further contends that if the petitioner co-operates with the third respondent bank employees in identifying the borrowers and then only the amount of Provident Fund payment would be disbursed.

6. As rightly submitted by the learned counsel for the petitioner, the amount to be paid towards the Provident Fund Contribution is the property of the concerned employee. The said benefit will become the right of Property under Article 300A of the Constitution of India, as held by the Hon'ble Apex Court and this Court on several occasion. Normally, in Bank transactions, the Bank Managers are responsible for verifying the applications of the loans and to grant loans to the beneficiaries. Between Branch Manager to General Manager, there are number of officers in the hierarchy. It appears that only to penalize the petitioner, now the third respondent has invented all these grounds, against the petitioner. If really the petitioner is at fault, the respondent Bank ought to have initiated proper proceedings at the relevant point of time. But at this belated stage these allegations are raised. It appears that only to avoid disbursement of payment towards the Provident Fund Contribution to the petitioner. Under these circumstances, this Court is of the considered opinion that the third respondent is not entitled to



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withheld the Provident Fund amount to be payable to the petitioner and it

has to be disbursed to the petitioner forthwith.

7. For the reasons stated above, this writ petition is allowed with a direction to the third respondent to disburse the petitioner's Provident Fund Contribution amount to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observation, this writ petition is disposed of.

9. There shall be no order as to costs.

23.04.2025

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

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BATTU DEVANAND, J.

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To

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