

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 6th OF OCTOBER, 2023

WRIT PETITION No. 12213 of 2014

BETWEEN:-

**SATISH CHARAN DUBEY S/O LATE SHRI DURGA
CHARAN DUBEY, AGED ABOUT 61 YEARS,
OCCUPATION: EX-BRANCH MANAGER, OFFICER
SCALE II, PRESENTLY RETIRED AS BRANCH
MANAGER, CENTRAL MADHYA PRADESH
GRAMIN BANK, DISTT. MANDLA, M.P. MIG-4,
HOUSING BOARD COLONY, NEAR CIRCUIT
HOUSE, DISTT. CHHINDWARA, M.P. (MADHYA
PRADESH)**

.....PETITIONER

(BY SHRI AJAY SHANKAR RAIZADA - ADVOCATE)

AND

- 1. CENTRAL MADHYA PRADESH GRAMIN
BANK THROUGH CHAIRMAN REGISTERED
OFFICE AT 800/19, SOUTH CIVIL LINES,
CHHINDWARA, M.P. (MADHYA PRADESH)**
- 2. THE REGIONAL MANAGER CENTRAL
MADHYA PRADESH GRAMIN BANK
MANDLA (MADHYA PRADESH)**
- 3. SHRI NARESH SHUKLA S/O NOT
MENTIONED OCCUPATION: THE THEN
REGIONAL MANAGER, CENTRAL MADHYA
PRADESH GRAMIN BANK MANDLA
CENTRAL MADHYA PRADESH
GRAMINBANK CHHINDWARA (MADHYA
PRADESH)**
- 4. THE MANAGER SCALE II AUDIT**

**DEPARTMENT CENTRAL MADHYA
PRADESH GRAMIN BANK MANDLA
(MADHYA PRADESH)**

- 5. SHRI ASHWINI BHATT S/O NOT
MENTIONED OCCUPATION: MANAGER
AUDIT DEPARTMENT SCALE III CENTRAL
MADHYA PRADESH GRAMIN BANK MANDL
(MADHYA PRADESH)**

.....RESPONDENTS

(NONE)

*This petition coming on for admission this day, the court passed
the following:*

ORDER

1. This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs :-
 - i) To call for the original record pertaining to enquiry proceedings;
 - ii) To declare the order dated 23.8.2013 (P/9) as null and void as rules have been adopted from retrospective date.
 - iii) To quash the impugned punishment order dated 5.2.2014 (annexure P/11) by which punishment of censure has been imposed.
 - iv) To quash the impugned order dated 18.1.2014 (annexure P/12) by which the General Manager mentioned himself as Anushashanik Pradhikari;
 - v) To quash the charge-sheet and all consequential action of respondents.
 - vi) To grant interest on the amount, which was deprived by the respondent along with retiral dues.
 - vii) To award cost of the petition.
 - viii) To give any other writ, order, direction which this Court feel just and proper in the given or changed circumstances.

2. It is submitted by counsel for the petitioner that the petitioner stood retired w.e.f. afternoon of 31.3.2013 and, therefore, he has sought instructions from the petitioner as to whether he would like to press this petition or not. It is submitted that the petitioner has instructed him to press relief no.7.6 only.
3. Accordingly, he seeks permission to withdraw this petition so far as it relates to reliefs no.7.1 to 7.5, 7.7 and 7.8.
4. In view of the submissions made by counsel for the petitioner, the relief sought by the petitioner in clause 7.1 to 7.5, 7.7. and 7.8 is hereby **dismissed**.
5. It is the case of the petitioner that although the petitioner had retired on 31.3.3013 but the bankers' cheque of his gratuity amount and leave encashment amount totaling Rs.13,79,013.20/- was issued on 26.2.2014, therefore, the petitioner was paid his legitimate dues with delay of 331 days. Thus, he is entitled for interest over the same.
6. The respondents have filed their return and it is submitted that in the departmental enquiry which was initiated just prior to retirement of the petitioner, the petitioner was awarded censure. It is submitted that the respondent Bank was legally justified in withholding the retiral dues of the petitioner from the date of retirement i.e. 31.3.2013 till 25.2.2014 because as per section 45 of the Service Regulations, 2012, the Bank has a right to withhold the retiral dues of the delinquent employee till a final decision is taken in the case of misconduct. The said power to withhold the retiral dues was communicated to the petitioner vide notice dated 11.3.2013 at the time of serving of the charge-sheet. The

impugned order of censure dated 18.1.2014 was communicated to the petitioner by covering letter dated 25.2.2014 and on the very next date, i.e. 26.2.2014 the retiral dues of the petitioner were approved by the respondents Bank and accordingly withholding of retiral dues of the petitioner was not the malafide action of the Bank but it was legitimately permissible under the Regulations.

7. Heard the learned counsel for the parties.
8. In order to award interest this Court is required to decide as to whether withholding of the legitimate amount was on account of any malafide on the part of the respondents or not.
9. The undisputed facts are that the petitioner stood retired on 31.3.2013 whereas the departmental enquiry was initiated on 11.3.2013, i.e. just 19 days prior to his date of retirement and the order of censure was passed on 5.2.2014 which was communicated to the petitioner by order dated 25.2.2014. By letter dated 11.3.2013 the petitioner was also informed that as per section 45 of the Bank Regulations he shall not be entitled to any amount except the CPF and it was also specifically informed to the petitioner that the leave encashment and gratuity amount can be withheld till the final order is passed. Thus, it is clear that the act of withholding of gratuity and leave encashment amount by the Bank was in accordance with section 45 of the Central M.P. Gramin Bank (Officers and Employees) Service Regulations, 2010. Therefore, it cannot be said that withholding of the amount of leave encashment or gratuity was without any authority.

10. The petitioner has filed his rejoinder and has not challenged the power of the Bank to withhold the gratuity and leave encashment during the pendency of the departmental proceedings. Interest can be granted only when this Court comes to a conclusion that the amount was illegally withheld by the respondents or where there is a statutory provision for payment of interest.
11. Counsel for the petitioner could not point out any statutory provision for payment of interest. On the contrary, respondents have specifically pointed out that immediately after the departmental enquiry was concluded, he was paid his legitimate dues.
12. It is submitted by counsel for the petitioner that the Supreme Court in the case of **State of Jharkhand v. Jitendra Kumar Srivastava and another**, reported in **(2013) 12 SCC 210** has held that withdrawal or withholding of pension in absence of specific rules therefor is not permissible.
13. However, in the present case, the respondents have already pointed out that as per section 45 of the 2010 Regulations, they have the authority to withhold the gratuity and leave encashment till the departmental action is over. Under these circumstances, it is clear that withholding of the gratuity and leave encashment was in accordance with the rules.
14. Accordingly, this Court is of the considered opinion that the respondents cannot be fastened with the liability of payment of interest which was legitimately withheld by them in accordance with the power available with the Bank under the provisions of section 45 of the

Central M.P. Gramin Bank (Officers and Employees) Service Regulations, 2010.

15. Accordingly, prayer for grant of interest is hereby rejected.
16. The petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

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