

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A. No. 1234 of 2015

The Villupuram District Central
Co-operative Bank Ltd.,
rep. By its Managing Director,
No.2 Hospital Road,
Villupuram 605 602.

...Appellant

vs.

1. K. Thirugnanasambandam
2. The Revision Authority/
Joint Registrar of Co-operative Societies,
Villupuram Region,
Villupuram 605 602.

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.04.2015 made in M.P. No. 2 of 2015 in W.P.No. 10326 of 2015.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith, the High Court will be pleased to pass an order of interim direction, directing the 2nd respondent to settle the terminal benefits on the basis of the orders passed by the 1st respondent in proceedings Na.Ka. 7517/2012/Sa.Pa dated 28.11.2014 for the present, pending disposal of the above Writ Petition.

For Appellant : Mr. R. Arumugam
For respondents : Mr. R. Krishnamoorthy - R1
Mr. N. Sakthivel
Govt. Advocate - R2

JUDGMENT
(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel on either side, this intra-Court appeal is taken up for final disposal.

2 The instant intra-Court appeal emanates from the interim order dated 9th April 2015 passed in M.P. No. 2 of 2015 in W.P.No. 10326 of 2015.

3 For the sake of brevity, clarity and convenience, the parties are referred to as per their litigative status in the instant intra-Court appeal.

4 The first respondent, while working as Assistant Manager in the appellant-Bank, was dismissed from service on 23.11.2012. Thereagainst, he filed a revision application before the second respondent, whereby and whereunder, by order dated 28.11.2014, the order of dismissal from service was modified by reducing 20% of basic pay and the period of suspension was ordered to be treated as "no work no pay". Feeling aggrieved, the first respondent has filed the instant writ petition, seeking a direction to settle his terminal benefits, based on the full salary drawn by him, without any reduction in pay, along with the Subsistence Allowance for the period of suspension. Along with the said writ petition, the first respondent has also preferred a Miscellaneous Petition being M.P. No. 2 of 2015 seeking interim direction. The learned Single Judge, while issuing notice, directed the appellant to settle the Gratuity, contribution of the first respondent towards Provident Fund and Earned Leave Encashment benefits, within a period of four weeks from the date of receipt of a copy of the order.

5 Learned counsel appearing for the appellant submits that the main relief in the writ petition was settlement of terminal benefits. The grant of terminal benefits, by way of interim orders, would amount to allowing the writ petition at the interim stage itself, without affording an opportunity of hearing to the appellant.

6 On the other hand, the learned counsel appearing for the first respondent submits that the Provident Fund amount has already been paid to the first respondent.

7 We have examined the facts in its entirety and also considered the rival contentions advanced by the learned counsel for the parties.

8 In the writ petition, the first respondent has questioned the legality of the order passed by the Revisional Authority, whereunder, while setting aside the order of dismissal, the Revisional Authority has reduced 20% of the basic pay and also directed to treat the period of suspension as "no work no pay". Unless the order of the Revisional Authority is set aside, the first respondent is not entitled to any terminal benefits, which is the subject matter of the writ petition. Thus, by way of interim direction, no final order granting terminal benefits ought to have been passed as it would nullify the adjudication of disputes pending consideration in the writ petition.

9 Accordingly, we set aside the interim order dated 9th April 2015 passed in M.P.No. 2 of 2015 in W.P.No. 10326 of 2015 and allow the writ appeal. The learned Single Judge is requested to consider the main writ petition on merits and in accordance with law, as expeditiously as possible. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1 The Villupuram District Central Co-operative Bank Ltd.,
rep. By its Managing Director,
No.2 Hospital Road, Villupuram 605 602.
- 2 The Revisional Authority/
Joint Registrar of Co-operative Societies,
Villupuram Region, Villupuram 605 602.

- 1 CC to Mr.R. Arumugam, Advocate SR.No. 46308
1 CC to M/s. K.Premkumar, Advocate SR.No. 46442
1 CC to the Government Pleader, SR.No. 46891

W.A. No. 1234 of 2015

GP (CO)
PSI (21.09.2015)