

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D. HARIPARANTHAMAN

W.P.No.16746 of 2015

and

M.P.No.1 of 2015

B.Indhira

.. Petitioner

.. Vs ..

1. The Joint Registrar of Co-op. Societies,
Villupuram Region,
Villupuram District.
2. The President,
Kiliyanur Primary Agricultural Co-op. Credit
Society, Kiliyanur and Post,
Vanur Taluk,
Villupuram District.

.. Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to disburse the petitioner's husband's death cum retirement benefits like Gratuity, Provident Fund and Unearned Leave Salary as per U/s.78 and 79 of Tamil Nadu Co-op. Societies Act.

For Petitioner : Mr.C.Prakasam
For R-1 : Mr.L.P.Shanmuga Sundaram
For R-2 : No Appearance

ORDER

Learned counsel for the petitioner has submitted that the petitioner is the widow, whose husband served in the second respondent Co-operative Society. According to the petitioner, her husband died, while he was in service. At the time of death, the husband of the petitioner, did not face any disciplinary proceedings or criminal proceedings or surcharge proceedings.

2. Even in the case of those persons, who are facing surcharge proceedings or disciplinary proceedings, after retirement, in a Co-operative Society, this Court has held that such persons are entitled to Gratuity and Provident Fund, as per the decision of this Court D.Govindarajan Vs. The Joint Registrar of Co-operative Societies, Tiruvallur and another reported in (CDJ 2014 MHC 3450).

Since the Co-operative Society has no disciplinary control over its employee, after retirement, such a view was taken.

3. In this case, the husband of the petitioner did not even face any departmental proceedings or surcharge proceedings at the time of death. Hence, the petitioner has filed this writ petition seeking for a direction to pay Gratuity and Provident Fund payable under Sections 78 and 79 of the Tamil Nadu Co-operative Societies Act.

4. In those circumstances, this Court permitted the petitioner to take private notice to the second respondent. Though notice was served, the second respondent has not chosen to appear.

5. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the first respondent.

6. Since the husband of the petitioner did not even face any disciplinary proceedings or surcharge proceedings at the time of death, there is no reason for the second respondent in not paying the Provident Fund and Gratuity payable due to the husband of the petitioner on his death.

7. In these circumstances, a direction is issued to the second respondent to pay Provident Fund and Gratuity for the service rendered by the husband of the petitioner, in terms of Sections 78 and 79 of the Tamil Nadu Co-operative Societies Act, within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The Joint Registrar of Co-op. Societies,
Villupuram Region,
Villupuram District.
2. The President,
Kiliyanur Primary Agricultural Co-op. Credit
Society, Kiliyanur and Post,
Vanur Taluk,
Villupuram District

+1cc to Mr.C. Prakasam, Advocate, S.R.No.32625

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.31282

+1cc to the Government Pleader, S.R.No.32468

KK(CO)

EU(13/07/2015)

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