

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.3058 of 2015

R.Prabakaran

.. Petitioner

Vs.

1.The Joint Registrar of Co-op. Societies
Villupuram Region,
Villupuram, Villupuram District.

2.The Assistant Commissioner of Labour /
Competent Authority for Payment of Gratuity Act,
Teynampet, Chennai - 6.

3.The President,
Villupuram District Central Co-op. Bank,
No.2, Hospital Road, Villupuram.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 and 3 to disburse Gratuity together with interest as well as Earned Leave salary benefits to the petitioner U/s.79 of Tamil Nadu Co-op. Societies Act

For Petitioner सत्यमेव जयते : Mr.C.Prakasam

For Respondents

: Ms.T.P.Savitha
Government Advocate [R1 & R2]
Mr.L.P.Shanmugha Sundaram
Special Government Pleader [R3]

WEB COPY

O R D E R

The petitioner seeks a Writ of Mandamus directing the respondents to disburse the Gratuity together with interest besides Earned Leave salary, taking into account his retirement on 31.05.2012.

2.The petitioner was appointed as Sub Staff of Villupuram District Central Co-operative Bank on 17.01.1974. He was later promoted to the post of Field Supervisor and on attaining the age of superannuation, the petitioner retired on 31.05.2012.

3.The respondents 1 and 3 initiated proceedings against the petitioner under Section 87 of the Tamil Nadu Co-operative Societies Act. The surcharge order passed by the statutory authority was challenged by the petitioner before the District Court in his capacity as Cooperative Tribunal. The Tribunal allowed the appeal vide order dated 26.10.2009 in C.M.A.No.27 of 2008. The said order was unsuccessfully challenged by the third respondent before the Writ Court in W.P.No.27168 of 2009.

4.It is the grievance of the petitioner that notwithstanding the finality attached to the surcharge proceedings, the respondents have not taken any action to pay him the statutory benefits. The petitioner is therefore before this Court.

5.The third respondent filed a counter affidavit indicating the factual position. According to the third respondent, they are in the process of filing a Writ Appeal against the order dated 24.07.2014 in W.P.No.27168 of 2009.

6.There is no dispute that as on today, there are no proceedings pending against the petitioner so as to disentitle him from claiming Gratuity and other related statutory benefits. It is also a matter of record that the order passed by the first respondent, pursuant to the surcharge proceedings, has become final, in view of the dismissal of the writ petition by this court vide order dated 24.07.2014 in W.P.No.27168 of 2009. The alleged action to be taken by the third respondent to file a Writ appeal against the order dated 24.07.2014 in W.P.No.27168 of 2009 cannot be a reason to deny payment of statutory benefits to the petitioner. I am therefore of the view that the petitioner should be given statutory benefits forthwith.

7. In the result, a Writ in the nature of a Writ of Mandamus is issued, directing the third respondent to disburse the entire statutory benefits to the petitioner including Gratuity and Earned Leave salary as expeditiously as possible and in any case within a period of 4 weeks from the date of receipt of a copy of the order.

8.The Writ Petition is disposed of with above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ajr/ds

To

1.The Joint Registrar of Co-op. Societies
Villupuram Region,
Villupuram, Villupuram District.

2.The Assistant Commissioner of Labour /
Competent Authority for Payment of Gratuity Act,
Teynampet, Chennai - 6.

3.The President,
Villupuram District Central Co-op. Bank,
No.2, Hospital Road, Villupuram.

1 cc to Mr. C.Prakasam,Advocate, SR.No.16810

1 cc to Mr.L.P.Shanmugha Sundaram ,Advocate, SR.No.16440

1 cc to Government Pleader,Sr.No16692

rsy(co)
pmk.10.4.2015

W.P.No.3058 of 2015

सत्यमेव जयते
WEB COPY