

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.02.2015

Coram

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.12499 of 2013
and
M.P.No.1 of 2013

A.Radhakrishnan

.. Petitioner

vs.

1. The Secretary to Government,
Cooperation, Food and Consumer
Protection Department,
Fort St.George,
Chennai-600 009
2. The Registrar of Coop.Societies,
Poonamallee High Road,
Kilpauk,
Chennai-600 010
3. The Administrator,
Z-829, Saliyamangalam Primary
Agricultural Coop.Credit Society,
Saliyamangalam,
Pabanasam Taluk,
Tanjore District

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the entire records relating to the impugned order passed by the second respondent in his proceedings Rc.No.8349/2013/PACS-3, dated 26.2.2013 and quash the same and consequently directing the respondents to disburse the entire terminal benefits to the tune of Rs.17.55 lakhs to the petitioner.

For Petitioner : Mr.C.Prakasam

For respondents : Mr.R.Balaramesh,A.G.P.
for R1 and R2
Mr.P.Rajalakshmi for R3

ORDER

The petitioner earlier filed a writ petition before this Court , in W.P.No.33371 of 2012, for a direction to the respondents to disburse his retirement benefits. The second respondent, pursuant to the order in the said writ petition, dated 20.12.2012, considered the representation and without taking into account the direction issued by this Court, by judgment dated 30.11.2006, in W.A.No.1312 of 2006, concluded that the third respondent has informed that the retirement benefits have already been settled and the balance amount would be paid within a period of four weeks. The contention taken by the first respondent that the retirement benefits have already been paid to the petitioner, made him to file this writ petition challenging the said order.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents.

3. The petitioner was initially appointed as Assistant Clerk in Central Cooperative Bank, Kumbakonam. Subsequently he joined the service of Primary Agricultural Cooperative Credit Society, Saliyamangalam, Tanjore District, the third respondent herein. The claim made by the petitioner for refixation of his pay scale in the post of clerk was rejected by the Society. The petitioner unsuccessfully challenged the said order before this Court in W.P.No.13982 of 1998. The order was taken up by way of intra Court appeal in W.A.No.1312 of 2006. The Division Bench was pleased to pass a judgment on 30.11.2006 allowing the appeal. Paragraph No.10 of the judgment reads thus:

"10.Further, the appellant is entitled to the post of Clerk for which already necessary relaxations have been given by the Government. We also hold that if the appellant has already been paid amounts in the post of Clerk, that need not be recovered pursuant to the order dated 14.7.1998 passed by the fifth respondent PACB. However, if the salary has been fixed to that of the Attestor from that date, we now direct the fifth respondent Society to re-fix the salary of the appellant in the post of Clerk from the date of this order by giving notional fixation to the entire period from 14.7.1998 till this date and fix his pay in the appropriate scale with appropriate weightage. However, we hold that no recovery should be made for the amount already paid but the appellant will also not get any salary for the period from 14.7.1998 till date as arrears. This is, in view of the fact that the Society is not in a good shape and also the fact that

they were not originally responsible for the entire mess created by the officers of the second respondent Department. Once this decision is taken by the fifth respondent PACB, the third respondent and the fourth respondent shall approve the action without raising any further query and without holding anybody responsible for the said fixation in future."

4. It is the grievance of the petitioner that notwithstanding the finding given by the Division Bench and direction issued to refix his salary in the post of Clerk from the date of judgment, follow up action was not taken by the Society. It was only under such circumstances, the petitioner filed a writ petition before this Court in W.P.No.33371 of 2012.

5. This Court directed the first respondent to issue appropriate direction to the third respondent for disbursing the arrears. The first respondent appears to have called for a report from the third respondent. The third respondent informed the first respondent that they have already settled the arrears to the petitioner and only a part of the amount is yet to be paid. It was only under such circumstances, the first respondent passed the impugned order.

6. The factual matrix indicates that the third respondent has not refixed the salary of the petitioner in the post of Clerk, pursuant to the judgment, dated 30.11.2006, in W.A.No.1312 of 2006. In fact, the petitioner earlier filed a contempt petition before this Court. When the contempt petition was taken up for consideration, the learned counsel for the Society submitted that the petitioner was directed to appear before the Society for the purpose of payment. The Division Bench was pleased to close the contempt petition by order dated 23.01.2012, on the basis of the said submission. However, the fact remains that the petitioner has not been paid the amount due to him, after refixing his pay in the post of Clerk. I am therefore of the view that the matter requires fresh consideration by the third respondent.

7. In the result, the order dated 26.2.2013 is set aside.

8. The third respondent is directed to refix the pay of the petitioner in the post of Clerk in strict compliance of paragraph No.10 of the judgment in W.A.No.1312 of 2006. The entire arrears, subsequent to such refixation should be paid to the petitioner as expeditiously as possible and in any case, within a period of four weeks from the date of receipt of a copy of this order.

9. The writ petition is allowed as indicated above. No costs.

msk

-s/d-

Assistant Registrar (CS-II)

Dt:25/2/2015

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Cooperation, Food and Consumer
Protection Department,
Fort St.George,
Chennai-600 009
2. The Registrar of Coop.Societies,
Poonamallee High Road,
Kilpauk,
Chennai-600 010
3. The Administrator,
Z-829, Saliyamangalam Primary
Agricultural Coop.Credit Society,
Saliyamangalam,
Pabanasam Taluk,
Tanjore District

+ 1 cc to M/s.C.Prakasam, Advocate SR 9466

+ 1 cc to Government Pledar High Court, Madras SR 9459

ca(co)
prk25/2

W.P.No.12499 of 2013

WEB COPY