

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.915 of 2015
& M.P.No.1 of 2015

1. V.Gnanamoorthy

... Petitioner

vs.

1. The Joint Registrar of Coop. Societies
Villupuram Region, Villupuram
Villupuram District.
2. The Deputy Registrar of Coop. Societies
Villupuram Circle, Villupuram
Villupuram District.
3. The President
CL.SPL.119 Thiruchitrambalam Primary
Agricultural Co-op. Credit Society
Thiruchitrambalam, Vanur Taluk
Villupuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the respondents to disburse the petitioner retirement benefits together with interest as per U/s.78 and 79 of Tamil Nadu Coop. Societies Act to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.Bala Ramesh, AGP

ORDER

The petitioner seeks a Writ of Mandamus directing the third respondent to disburse the retirement benefits consequent to his retirement.

2. The petitioner worked as Salesman in the third respondent society and on attaining the age of superannuation retired on 30.6.2014. However, the petitioner was not given the retirement benefits presumably on the ground that a criminal case was pending against him at the instance of Taluk Supply Officer. The petitioner has submitted a representation on 31.12.2014, requesting the third respondent to pay the retirement benefits. Since there was no follow up action taken by the third respondent, the petitioner was constrained to file this Writ Petition.

3. The third respondent in his counter affidavit contended that a criminal case in Crime No.102/2009 is pending against the petitioner before the learned Judicial Magistrate, Villupuram. The petitioner obtained an interim order of stay in Criminal Original Petition No.20001 of 2010 and as such the case is now pending.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

5. There is no dispute that the petitioner was permitted to retire from service, of course without prejudice to the pending criminal case. The criminal case has nothing to do with the service of the petitioner insofar as the third respondent is concerned. It is not in dispute that the Society has not initiated any disciplinary proceedings against the petitioner so far. The fact that a criminal case is pending against the petitioner alone would not give a right to the third respondent to retain the benefits payable to the petitioner. The third respondent has not produced any documents to show that the bye-laws permit initiation of disciplinary proceedings after retirement.

6. The Supreme Court in Dev Prakash Tewari vs. U.P. Cooperative Institutional Service Board and others (2014 (8) Scale 216) indicated that in the absence of provision for conducting disciplinary enquiry after retirement, it is not open to the management to initiate proceedings after retirement.

7. Since the bye-laws issued by the third respondent society do not permit initiation of disciplinary proceedings after retirement, I am of the view that the third respondent has no right to retain the benefits payable to the petitioner.

8. In the result, a writ in the nature of a writ of mandamus is issued, directing the third respondent to disburse the statutory benefits payable to the petitioner. Such exercise shall be

completed within a period of eight weeks from the date of receipt of a copy of this order.

9. The Writ Petition is allowed to the extent indicated above. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

ajr

To

1. The Joint Registrar of Coop. Societies
Villupuram Region, Villupuram
Villupuram District.
2. The Deputy Registrar of Coop. Societies
Villupuram Circle, Villupuram
Villupuram District.
3. The President
CL.SPL.119 Thiruchitrambalam Primary
Agricultural Co-op. Credit Society
Thiruchitrambalam, Vanur Taluk
Villupuram District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.11744
+1cc to the Government Pleader, S.R.No.11248

W.P.No.915 of 2015

VGI (CO)
CA(10/03/2015)

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