

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.9976 of 2015 and
M.P.No.1 of 2015

R.Gopalan

...Petitioner

vs.

1.The Registrar of Co-operative Societies,
No.170, N.V.N.Maligai,
Kilpauk, Chennai -10.

2.The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal District.

3.No.994, Tiruchengode Co-operative Urban Bank Ltd.,
Rep. by its Managing Director/President,
Tiruchengode - 637 211, Namakkal District.

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, directing the respondents to pay interest at 12% per annum for 253 days on Rs.21,30,632.71/- being interest of Rs.1,77,221.94/- for belated payment of the petitioner's retirement benefits.

For Petitioner : Mr.M.S.Palanisamy for
Mr.S.P.Yuvaraj

For Respondents : Mr.L.P.Shanmugasundaram
Special Govt. Pleader

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The petitioner joined as a Clerk in the third respondent Bank on 19.03.1975. He was promoted as Accountant in the year 1995 and further promoted as Manager in 2002. He completed 35 years of service and retired from service on 30.04.2014. (Though the date of retirement is mentioned as 31.03.2010 in the affidavit, it is stated by the learned counsel for the petitioner that the petitioner retired from service on 30.04.2014)

2. While the petitioner was in service, surcharge proceedings under Section 87 of Tamilnadu Cooperative Societies Act was

initiated against him and others. Ultimately, the proceedings were dropped in view of the order passed by this Court dated 30.10.2014 made in W.P.No.16744 of 2014.

3. According to the petitioner, though he retired from service on 30.04.2014, the retirement benefits were paid only on 08.01.2015 with a delay of 253 days. Hence, the petitioner has come up with this writ petition, seeking for a direction to the respondents to pay interest for the belated payment of retirement benefits.

4. Heard both sides.

5. The learned counsel for respondents 1 and 2 has submitted that the petitioner has an effective remedy under the Payment of Gratuity Act, if the third respondent institution is covered under the said Act. The Payment of Gratuity Act is a self contained code and even in the case of workman covered by the Industrial Disputes Act, such workman cannot make a claim under Section 33-C(2) of the I.D.Act before the Labour Court in respect of gratuity and such workman shall approach the Controlling and Appellate authority under the Payment of Gratuity Act, as held by the Apex Court reported in 1980 1 SCC 4 [State of Punjab v. Labour Court, Jullundur and others]

6. If the Payment of Gratuity Act is not applicable to the establishment, then Section 78 of the Tamil Nadu Cooperative Societies Act would govern the institution. In that event, the petitioner could approach the Revisional Authority under Section 153 of the Act.

7. He would further submit that if the third respondent is governed by Employees Provident Fund Act, then he could approach the authority under the said Act. If not, then Section 79 of the Tamil Nadu Cooperative Societies Act would govern the situation and he would approach the revisional authority under Section 153 of the said Act for his settlement of PF dues.

8. I am in entire agreement with the submission made by the learned counsel for the respondents. The petitioner seeks interest for the delayed payment of gratuity and provident fund. In the case on hand, terminal benefits are paid. The only issue is whether the petitioner is entitled to interest for the belated payment of 253 days.

9. In my view, the petitioner could approach the appropriate authority under the relevant statutes seeking the relief relating to interest on the belated payment of terminal benefits. Hence, the writ petition is not maintainable. Further, writ petition is not maintainable against the Co-operative Societies. Accordingly, the writ petition stands dismissed. However, this will not preclude the petitioner from approaching the concerned authorities under the

relevant statute. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

- 1.The Registrar of Co-operative Societies,
No.170, N.V.N.Maligai, Kilpauk, Chennai -10.
 - 2.The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal District.
 - 3.The Managing Director/President
No.994, Tiruchengode Co-operative Urban Bank Ltd.,,
Tiruchengode - 637 211, Namakkal District.
- 1 cc to Mr.L.P.Shanmugasundaram ,Advocate, SR.No.19054
1 cc to Mr. S.P.Yuvaraj,Advocate, SR.No.19132
1 cc to Government Pleader,Sr.No19271

W.P.No.9976 of 2015

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