

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.30720 of 2014
and M.P.Nos. 1 and 2 of 2014

1.K.Koosappa
2.M.Thimmarayappa
3.V.Ramasamy
4.B.Gopal

.. Petitioners

(Thir Writ Petition in respect of the
3rd petitioner stands dismissed as
withdrawn as per the order of this
Court dated 20.04.2016)

Vs.

1.The Director
Department of Sericulture
Annaaimedu
Salem-636 001.

2.The Assistant Director
Department of Sericulture
Kolatti
Krishnagiri District-635 107.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondents to pay the Employees' Provident Fund amount due to the petitioners with interest and pass such orders as deemed fit and necessary in the circumstances of the case.

For Petitioners : Mrs.Lesi Saravanan

For Respondents : Mr.K.V.Dhanapalan
Additional Government Pleader

O R D E R

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to pay the Employees' Provident Fund amount due to the petitioners, with interest.

2. The petitioners entered into service on daily wages. Subsequently, their services were regularized. On attaining

superannuation, they retired from service. Without any order for withholding the provident fund amount being passed, the respondents have withheld their terminal benefits alleging that excess payment of Dearness Allowance have been made for the year 2004-2011. The Audit Objection was also not served on the petitioners till date. Hence, seeking to direct the respondents to pay the Employees' Provident Fund amount due to the petitioners, with interest, the petitioners have filed the present Writ Petition.

3. During the pendency of the Writ Petition, it was represented that permission may be granted to withdraw the Writ Petition insofar as the 3rd petitioner alone is concerned. Accordingly, permission was granted and hence, the Writ Petition in respect of the 3rd petitioner alone was dismissed as withdrawn, on 20.04.2016.

4. Today, when the matter is taken up, Mrs. Lesi Saravanan, the learned counsel for the petitioner would submit on retirement from service, the regularized workers are eligible to receive their Employees' Provident Fund. She would further add that there is no notice issued and merely on the basis of the Audit Objection alone, there cannot be any recovery made, therefore, the portion of the recovery proceedings pertaining to recovery is bad in law.

5. Mr. K. V. Dhanapalan, the learned Additional Government Pleader, who takes notice on behalf of the respondents, would submit that during the year 2011, it was found by the Department of Sericulture that the Dearness Allowance was paid to the workers for the period from 01.04.2004 to 31.08.2011 over and above than the amount fixed by the Commissioner of Labour Department, Chennai. Hence, recovery proceedings were served by proceedings dated 25.07.2013 that the excess payment of Dearness Allowance would be recovered from their monthly salary. The petitioners retired from service and hence, the respondents could not recover the balance amount from them after their retirement. Except the Employees' Provident Fund amount, there are no resources to recover the amount from the petitioners. Hence, he would pray for the dismissal of this Writ Petition.

6. Heard both sides. By consent, this Writ Petition is taken up and disposed of.

7. The 2nd respondent has filed a detailed counter, wherein, he has stated that he has no intention of withholding the final withdrawal of the Employees' Provident Fund meant for the labours. Thus, it is evident that the respondents have not paid the Employees' Provident Fund amount due to the petitioner Nos. 1, 2 and 4 till date and it is also clear that it is not their intention to withhold the final withdrawal amount of the

Employees' Provident Fund meant for the labours and they are ready to pay the Employees' Provident Fund amount due to the petitioner Nos.1, 2 and 4.

8. In the result, this Writ Petition is allowed insofar as the petitioner Nos.1, 2 and 4 are concerned. It is needless to mention that the Writ Petition insofar as the 3rd petitioner alone is concerned, the same was dismissed as withdrawn as early as on 20.04.2016 itself. The respondents are hereby directed to pay the Employees' Provident Fund amount due to the petitioner Nos.1, 2 and 4, with interest at the rate of 6% per annum, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. The connected Miscellaneous Petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Director,
Department of Sericulture,
Annaimeadu,
Salem-636 001.
- 2.The Assistant Director,
Department of Sericulture,
Kolatti,
Krishnagiri District-635 107.

+lcc to M/S Lesi Saravanan, Advocate Sr.37128
+lcc to the Government Pleader Sr.37461

Writ Petition No.30720 of 2014

ctk[co]
srg 28/07/2016