

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 09.06.2016**

**CORAM:**

**THE HON'BLE MR.JUSTICE B.RAJENDRAN**

**W.P.No.8576 of 2015 and**  
**M.P.No.1 of 2015**

S.Kasthuri

... Petitioner

**Vs.**

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

2. The President,  
Kizhedaiyalam Primary Agricultural  
Co-op. Bank,  
Kizhedaiyalam & Post,  
Tindivanam,  
Villupuram District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct the respondents to disburse the interest for the petitioner's husband Gratuity and Provident Fund by calculating the same for nine years together with leave salary.

For petitioner : Mr.C.Prakasam

For respondents : Mr.L.P.Shanmugasundaram,  
Special Government Pleader (Co.op)

**ORDER**

The Writ Petition has been filed by the petitioner, seeking a direction to the respondents to disburse the interest for the belated payment of Gratuity and Provident Fund of her husband.

2. The case of the petitioner is that her husband was working in the 2<sup>nd</sup> respondent Bank as Secretary and he died on 27.07.2005 due to his illness while in service. Since she has no issues, she is the only legal heir for the retirement benefits of her husband. After agitating for nine years, she was given the terminal benefits.

3. It is the grievance of the petitioner that for the belated payment of terminal benefits, the respondents have to pay the interest.

4. Today, when the matter is taken up for hearing, the learned counsel appearing for the respondents submitted that in a similar case, this Court passed an order dated 07.04.2015 in W.P.No.9976 of 2015, stating that the petitioner could approach the appropriate authority under the relevant statutes seeking the relief relating to interest on the belated payment of terminal benefits and dismissed the writ petition as not maintainable.

5. In view of the above, the present writ petition is dismissed granting liberty to the petitioner to approach the appropriate forum seeking the remedy sought for in this writ petition. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2016

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To

1. The Joint Registrar of Co-op. Societies,  
Villupuram Region, Villupuram,  
Villupuram District.
2. The President,  
Kizhedaiyalam Primary Agricultural  
Co-op. Bank,  
Kizhedaiyalam & Post,  
Tindivanam, Villupuram District.

**B.RAJENDRAN, J.**

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**W.P.No.8576 of 2015**

**09.06.2016**

This writ petition has been filed praying for the issuance of a writ of mandamus, to direct the respondents to disburse the interest for the petitioner's husband Gratuity and Provident Fund by calculating the same for nine years together with leave salary.

2. The case of the petitioner is as follows:

The petitioner's husband was working in the 2<sup>nd</sup> respondent Bank as Secretary and he died on 27.07.2005 due to his illness while in service. After the death of her husband, since she has no issues and she is the only legal heir, she approached the respondents, requesting them to disburse the retirement benefits of his husband, including death cum retirement benefits. Thereafter, the respondents disbursed only a sum of Rs.1,00,000/-. When she asked for the remaining amount of retirement benefits, the respondents refused to disburse the remaining amount stating that her husband was surcharged under Section 87 of the Tamil Nadu Co-op. Societies Act, by the Deputy Registrar of Co-op. Societies and therefore, the second respondent deducted the surcharge amount to be paid by her husband and disbursed only a sum of Rs.18,000/- and after passing an order by this Court, the respondents further disbursed a sum of Rs.18,000/- only. On a revision petition filed under Section 153 of the Tamil Nadu Co-op. Societies Act, by the petitioner, for disbursement of the retirement benefits, the first respondent, on 20.12.2011, by observing that the 2<sup>nd</sup>

respondent failed to follow the procedure as laid down under Sections 78 and 79 of the Tamil Nadu Co-op. Societies Act, directed to disburse the gratuity and provident fund as per the Act. Despite several requests, the 2<sup>nd</sup> respondent did not disburse the said amount. After several representations, the petitioner made another representation on 11.06.2012, but, no orders have been passed by the respondent. In this regard, the petitioner filed a writ petition in W.P.No.16946 of 2012, wherein this Court passed an order directing the 2<sup>nd</sup> respondent to disburse a sum of Rs.2,05,031/- as terminal benefits of her husband, within a period of eight weeks, otherwise the 2<sup>nd</sup> respondent shall pay interest at the rate of 12% per month till payment is made. Thereafter, the respondents disbursed the same within the stipulated time. Since the respondents did not disburse the gratuity and provident fund for the past nine years, now, the petitioner seeks interest for the delayed payment of gratuity and provident Fund.

Heard both sides.

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 and Gratuity Act, as held by the Apex Court reported in 1980 1 SCC 4 (State of Punjab v. Labour Court, Jullundur and others)

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

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 Co-operative Societies Act would govern the situation and he would approach the revision authority under Section 153 of the said Act for his settlement of PF dues.

I am in entire agreement with the

**09.06.2016**

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To

1. The Director,  
Elementary School Education,

DPI Campus, College Road,  
Chennai – 600 006.

2. The District Elementary School Officer,  
Office of the District Elementary  
School Office, Salem – 1.
3. The Assistant Elementary School Officer,  
Office of the District Elementary  
School Office, Salem – 1.

**B.RAJENDRAN, J.**

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**W.P.No.8576 of 2015**

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