

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

WRIT PETITION No.25666 of 2016

R.Gopalan

... Petitioner

vs.

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

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records of the order in Na.Ka.4450/2015 sa.pa. dated 16.06.2016 on the file of the 1st respondent, quash the same and direct the respondents to pay the statutory interest of 12% per annum on Rs.1,77,221.94 for 253 days for belated payment of the petitioner's retirement benefits.

For Petitioner : Mr.V.Ravichandran

For 1st Respondent : Ms.T.Girija,
Government Advocate

For 2nd Respondent : Mr.L.P.Shanmuga Sundaram,
Special Government Pleader

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O R D E R

The petitioner has come up with this Writ Petition seeking to quash the order dated 16.06.2016 passed by the 1st respondent and for a consequential direction to the respondents to pay the statutory interest at 12% per annum on Rs.1,77,221.94 for 253 days for the belated payment of his retirement benefits.

2. According to the petitioner, he joined as a Clerk in the 2nd respondent Bank on 01.06.1983 and promoted as an Accountant in the year 1995 and further promoted as Manager in 2014 and allowed to retire on 30.04.2014. It is his case that while in service, one G.Ravichandran, who was working as a Head Clerk in the 2nd respondent Bank committed various irregularities in the Bank and an enquiry was ordered under Section 81 of the Tamil Nadu Co-operative Societies Act into the irregularities and affairs of the Society. The Enquiry Report found that the said G.Ravichandran and other employees of the Bank committed serious irregularities and caused loss to the Bank to the tune of Rs.16,70,323.29. Based on the Enquiry Report, the Deputy Registrar of Co-operative Societies, Tiruchengode initiated proceedings under Section 87 of Tamil Nadu Co-operative Societies Act against Ravichandran and 14 others and the petitioner was wrongly included in the surcharge proceedings.

3. It is the grievance of the petitioner that when the 2nd respondent is aware that the Deputy Registrar, who passed the surcharge order under Section 87 of the Tamil Nadu Co-operative Societies Act has held that the petitioner is not responsible for the loss and when there are no other departmental proceedings against him, he ought to have been paid entire gratuity, provident fund, leave salary and other benefits.

4. Since the respondents did not take any action to disburse his terminal benefits, the petitioner filed a Writ Petition in W.P.No.16744 of 2014 seeking a direction to disburse his terminal benefits and this Court, by an order dated 30.10.2014, directed the 2nd respondent therein to consider and pass orders on the petitioner's representations dated 19.05.2014 and 07.06.2014 on merits and in accordance with law within a period of six weeks.

5. Pursuant thereto, the Registrar of Co-operative Societies, in his proceedings dated 26.12.2014 passed an order directing the respondents to comply with the order of this Court and report compliance to him. Thereafter, the 2nd respondent paid the retirement benefits to the tune of Rs.21,30,632.71 to the petitioner on 08.01.2015, but, he did not pay the interest of Rs.1,77,221.94 so far. In this regard, the petitioner made a representation to the respondents on 27.02.2015 demanding payment of interest for the belated payment of his retirement benefits, at 12% per annum.

6. Pending consideration of the said representation, the petitioner once again approached this Court by filing W.P.No.9976 of 2015 seeking a writ of mandamus directing the respondents to pay interest at 12% per annum for the belated payment of 253 days and this Court, by an order dated 07.04.2015, directed the petitioner to approach the appropriate authority under Section 153 of the Tamil Nadu Co-operative Societies Act. Hence, the petitioner filed a Revision before the 1st respondent seeking a direction to the 2nd respondent to pay a sum of Rs.1,77,221.94 towards interest for the delay payment at 12% per annum. Aggrieved by the order of the 1st respondent granting 4.5% interest for 253 days of delayed payment of retirement benefits, the petitioner has approached this Court.

7. When the matter is taken up for hearing, learned counsel for the petitioner invited the attention of this Court to Section 7-Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, which reads thus:

7Q. Interest payable by the employer: The employer shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.

8. In terms of Section 7-Q of the said Act, learned counsel for the petitioner submitted that a direction may be given to the respondents to pay interest on the delayed payment of the petitioner's retirement benefits at 12% per annum.

9. In view of the above, the impugned order dated 16.06.2016 passed by the 1st respondent is set aside and the respondents are directed to pay interest at 12% per annum on the belated payment of the petitioner's retirement benefits within a period of four weeks from the date of receipt of a copy of this order.

This Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.No.21991 of 2016 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

1. The Joint Registrar of Co-operative Societies,
Namakkal Region,
Namakkal District.
2. The Managing Director/President,
No.994, Tiruchengode Co-operative
Urban Bank Ltd.,
Tiruchengode - 637 211
Namakkal District.

+1cc to Mr.V.Ravichandran, Advocate Sr.62988

+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.63228

+1cc the the Government Pleader Sr.63271

W.P.No.25666 of 2016

cp[co]
srg 15/12/2016

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