

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3266 of 2016

N.P.Palanisamy

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,  
Erode Region,  
Karungalpalayam Region,  
Erode.

2.The Chairman,  
Erode Central Co-operative Bank Limited,  
Head Office, Erode - 638 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of mandamus to direct the respondents to pay the petitioner's entire Provident Fund, Gratuity and Leave Salary totalling a sum of Rs.29,47,311/- together with interest at the rate of 13% per annum from the date of superannuation till the date of payment within a time frame as fixed by this Court.

For Petitioner :Mr.C.Munusamy

For Respondents :Mr.L.P.Shanmughasundaram, Spl.GP

ORDER

By way of filing this writ petition, the petitioner seeks a direction to the respondents to pay the petitioner's entire Provident Fund, Gratuity and Leave Salary, totalling a sum of Rs.29,47,311/- together with interest at the rate of 13% per annum from the date of superannuation till the date of payment.

2. Mr.L.P.Shanmughasundaram, learned Special Government Pleader, takes notice for the respondents.

3. It is seen that the petitioner, who was appointed initially as Sub-staff in the respondent department, was terminated from service on 23.08.2000. But, he was not paid with the General Provident Fund, Special Provident Fund, Earned Leave and Leave earned on private affairs. Therefore, he made a representation dated 20.11.2015 to the respondents. However, the same was not disposed of by the respondent.

4. Learned counsel for the petitioner has also brought to the notice of this Court a judgment passed by the Hon'ble Division Bench of this Court in the case of Joint Registrar of Co-operative Societies, Nagapattinam v. R.Chithravelu (W.A.No.1700 of 2015, dated 18.01.2016). Relevant portions of the said judgment are extracted below:

"8. The amounts so collected from the employee from his salary and credited to his General Provident Fund Account, Special Provident Fund Account and his Earned Leave and Leave Earned on Private Affairs amounts partakes the nature of salary earned by him during his service. They are his money. They cannot be withheld even if disciplinary proceedings are initiated against him.

9. In this respect the Writ Court has rightly placed its reliance on the Full Bench judgment of the Punjab and Haryana High Court in Punjab State Civil Supplies Corporation Ltd., and others v. Pyare Lal (LPA No.113 of 2012, dated 09.11.2012).

10. Further, in Rule 7(1) of the Tamil Nadu Leave Rules, 1933, quoted by the learned counsel for the appellants, there is no prohibition for the payment of Earned Leave and Leave on Private Affairs to those who are facing any enquiry after the date of retirement. In such circumstances, the clarification letter of the Government dated 17.09.1990 cannot alter the above position of law. Thus, in the circumstances, no interference is called for."

5. In view of the above, this Court, by taking note of the pendency of the representation, directs the respondents to pass orders on the representation dated 20.11.2015 of the petitioner on merits and in accordance with law and also by taking note of the above said judgment of the Division Bench of this Court. Such exercise shall be done by the respondents within a period of two weeks from the date of receipt of a copy

of this order. Counsel for the petitioner is directed to send the above said representation once again to the respondents along with the order passed by this Court. With this direction, the writ petition stands disposed of. No Costs.

sd/-  
Assistant Registrar (Cs-V)

/TRUE COPY/

Sub-Assistant Registrar

rkm

To

1.The Joint Registrar of Co-operative Societies,  
Erode Region,  
Karungalpalayam Region,  
Erode.

2.The Chairman,  
Erode Central Co-operative Bank Limited,  
Head Office, Erode - 638 003.

+1 CC to MR.C.Munusamy Advocate. SR.NO. 7056  
+1 CC to MR.L.P.Shanmughasundaram Advocate. SR.NO. 7328  
+1 CC to Govt.Pleader. SR.NO. 7235

W.P.No.3266 of 2016

CO-VGI  
JD 16/02/2016

सत्यमेव जयते  
WEB COPY