

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14523 of 2017

G.Yamuna

... Petitioner

Vs.

1. Transport Corporation Employees
Co-operative Society Ltd, X-367
Rep. by the Secretary,
No.10, Rathna Nagar, Teynampet,
Chennai-600 018.
2. Tamil Nadu State Transport
Corporation (Villupuram) Ltd
Rep. by the Managing Director,
3/137, Salamedu
Valudha Reddy Post,
Villupuram-605 602.
3. Tamil Nadu State Transport
Corporation (Villupuram) Ltd,
Kancheepuram Region,
Rep.by the General Manager,
Regional Office, Karapettai,
Bangalore Highway, Kancheepuram-631 552.

4. D.Babu

... Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to clear off the check slip format of the petitioner so as to enable her to produce the same to the 3rd respondent transport corporation for getting the retirement benefits without any deductions pertaining to the outstanding loan amount of the 4th respondent as she had not signed in the loan application of the fourth respondent and with 12% interest per annum for the delayed payment of retirement benefits.

For Petitioner : Mr.N.Ishak

For Respondents : Mr.L.P.Shanmuga Sundaram,
Special Government Pleader for R1

: Mr.A.Antony Arokia Raja for R2 & R3

: No appearance for R4

ORDER

The learned counsel for the petitioner would submit that the petitioner was working in the respondent Transport Corporation and the petitioner had retired from Government Service on 30.06.2016 A.N. In order to get terminal benefits, the petitioner sent a Check Slip Format to the first respondent for filling up the column No.8(b) of the said format. But, without filling up the column, the first respondent returned the format stating that the fourth respondent had become defaulter of repayment of the loan to which the petitioner had given surety. It is important to note that while in service itself, the petitioner had explained above this fact to the first respondent saying that the petitioner had not signed in the loan application of the fourth respondent. In the year 2011, on perusing the records, the first respondent had found that the signature in the application was a forgery and had informed the petitioner that penal action would be initiated against the fourth respondent. The petitioner had also served a legal notice dated 04.01.2017 on the first respondent in this connection. Further, the petitioner has sent a representation dated 02.02.2017 and another representation dated 13.03.2017 to the first respondent requesting to take action against the fourth respondent and proceed with the issuance of terminal benefits. Though, both the letters have been acknowledged, no action is seen on the part of the first respondent. Hence, the petitioner has filed the present writ petition before this Court.

2. The counter affidavit filed by the first respondent would state that before availing the loan, the co-employee of the petitioner / the fourth respondent had submitted an application which contained the details of the fourth respondent as well as details of the petitioner as if the petitioner stands surety for the said loan. The counter affidavit would further state that as a guarantor, the petitioner is responsible for the entire dues to be paid by the fourth respondent. Further, Para 4 in Page 2 of the counter affidavit filed by the respondent is given as follows.

"I respectfully submit this Writ Petition is filed against the Cooperative Society which cannot be characterized as a 'State' within the meaning of Article 12 of the Constitution, hence writ will not lie as per the large Bench judgment of this Hon'ble Court in the case of K.Marappan v. Deputy Registrar of Cooperative Societies, (2006) 4 MLJ 641; (2004) 4 CTC 689. Hence, this writ petition is not maintainable in terms of above judgment of this Hon'ble Court."

3. The Judgement referred above by the first respondent would clearly state that for any such dispute as stated in the affidavit filed by the petitioner, the petitioner has to approach the concerned authority for the relief and hence the Article 226 of the Constitution of the India cannot be invoked for the same.

4. In view of the facts and circumstances of the case and the decision cited supra, the writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to approach the concerned authority for the relief under the provisions of the Act, if so advised. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Transport Corporation Employees
Co-operative Society Ltd, X-367
No.10, Rathna Nagar, Teynampet,
Chennai-600 018.
2. The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd
3/137, Salamedu
Valudha Reddy Post,
Villupuram-605 602.

3. The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd,
Kancheepuram Region,
Regional Office, Karapettai,
Bangalore Highway, Kancheepuram-631 552.

+1cc to Mr.N.Ishaka, Advocate, S.R.No.48724

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate, S.R.No.49050

+1cc to Mr.A.Antony Arokia Raj, Advocate, S.R.No.48547

W.P.No.14523 of 2017

MN(CO)
CA(31/08/2017)



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