

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2017

CORAM:

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.27883 of 2014

&

MP.No.1 of 2014

N.Pushpanathan

...Petitioner

vs.

1. The Registrar of Co-operative Societies,
No.170, N.V.N.Maligai,
Kilpauk,
Chennai-10

2.The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.

3.Dharmapuri Co-operative Town Bank Ltd.,
rep. by its Managing Director/President,
Dharmapuri.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents to pay the petitioner's retirement benefits of Rs.20,04,974/- with 12% interest from 01.05.2010 to 31.08.2014 for Rs.10,09,215/- totally Rs.30,14,189/- and further interest till payment.

For Petitioner

:

Mr.C.K.Chandrasekhar

For RR1 & 2

:

Mr.L.P.Shanmugha Sundaram

For R3

:

Mr.R.Bala Ramesh

O R D E R

Writ Petition has been filed seeking for issuance of a writ of Mandamus to direct the respondents to pay the petitioner's retirement benefits for a Rs.20,04,974/- with 12% interest from 01.05.2010 to 31.08.2014 for Rs.10,09,215/-, totally Rs.30,14,189/- and further interest till the date of payment.

2. According to the petitioner, in pursuance of the surcharge proceedings, disciplinary action was initiated and the amount of Rs.4,95,000/- is sought to be attached, vide demand notice dated 31.03.2008. The petitioner however, attained the age of superannuation on 30.04.2010. However, in view of the pendency of surcharge proceedings, the retirement benefits which are otherwise due to him, have not been released. According to the petitioner, nearly more than Rs.20,00,000/- is due to him towards his retirement benefits, and a break up figure of his entitlement under various heads has been furnished by the petitioner in his representation dated 08.09.2014 addressed to the first respondent. A copy of the said representation has also been marked to the second and the third respondents. However, as the same has not been disposed of till date, the petitioner has preferred the present petition.

3. Today, when the matter is taken up for hearing, the learned counsel for the petitioner would fairly submit that the amount of Rs.4,95,000/- is sought to be attached, can be withheld by the respondent society till completion of surcharge proceedings, the remaining amount may be released since the petitioner retired as early as in the year 2010 and he and his family have been languishing in penury with any source of income for their sustenance.

4. Upon notice, Mr.L.P.Shanmugha Sundaram, learned counsel entered appearance for the first and second respondents and sought to resist the claim of the petitioner.

5. The learned counsel for the petitioner has relied upon the decision reported in 2015(6) MLJ684(A. Sengodan Vs. Registrar of Cooperative Societies, Chennai and others) passed by this Court, wherein, it is held that the retiral benefits, cannot be with-held and by following the same, the respondents may be directed to take a final decision and pass appropriate orders, on merits and in accordance with law.

6. Considering the limited submissions made by the learned counsel for the petitioner, this Court is of the firm view that a direction may be issued to the respondents to consider and pass orders on the petitioner's representation dated 08.09.2014 addressed to the first respondent and a copy of the same has been marked to the second and the third respondents on merits and in accordance with law.

7. It is made clear that while considering the said representation dated 08.09.2014, the authorities concerned shall take into consideration the amount sought to be attached

is only Rs.4,95,000/- and the amount which is due to the petitioner towards retirement benefits is more than Rs.20,00,000/-. In the circumstances, with-holding the entire retirement benefits is without any justification. Hence, the respondents/competent authorities are directed to dispose of the petitioner's representation dated 08.09.2014 in the light of the above observations, within a period of two months from the date of receipt of a copy of this order and pass appropriate orders on merits and in accordance with law.

8.The writ petition is disposed of, with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Registrar of Co-operative Societies,
No.170, N.V.N.Maligai,
Kilpauk,
Chennai-10
- 2.The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.
- 3.The Managing Director/President,
Dharmapuri Co-operative Town Bank Ltd.,
Dharmapuri.

+1cc to Mr.R.Bala Ramesh, Advocate sr.60671

+1cc to Mr.C.K.Chandrasekar, Advocate sr.60693

+1cc to the Government Pleader sr.61103

Order in
W.P.No.27883 of 2014

BR(CO)
SS(19/9/2017)