

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5885 of 2016

M.Mohanasundaram

... Petitioner

Vs.

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

2. The President,
K 1571, Karattupalayam Primary Agriculture
Co-operative Credit Society Ltd.,
Thongukuttipalayam Post,
Pollikalipalayam Via,
Thiruppur District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay entire Provident Fund, Gratuity, Subsistence Allowance, Duty pay, Security Deposit and Leave Salary totalling a sum of Rs.4,23,254/- together with interest at the rate of 18% per annum from 23.09.1999 till the date of payment within the time frame to be fixed by this Court.

For Petitioner : Mr.C.Munusamy

For R1 : Mr.L.P.Shanmugasundaram,
Special Government Pleader

For R2 : Ms.T.P.Savitha

O R D E R

Heard Mr.C.Munusamy, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the first respondent and Ms.T.P.Savitha, learned counsel appearing for the second respondent.

2.The relief sought for in this writ petition is for a direction to pay Provident Fund, Gratuity, Subsistence Allowance, Duty pay, Security Deposit and Leave Salary totalling a sum of Rs.4,23,254/- together with an interest at the rate of 18% per annum from 23.09.1999, till the date of actual time frame.

3.The writ petitioner was holding the post of secretary of the second respondent, Co-operative Society and placed under suspension on 23.09.1999, on account of certain allegations of misappropriation of funds of the Co-operative Society. After conducting enquiry, the petitioner was terminated from service on 11.10.2004.

4.In this regard, the writ petitioner submitted a representation on 17.07.2014. The second respondent has given a reply on 07.03.2015 stating that the amounts cannot be settled at present, in view of the audit to be conducted with regard to the dues to be paid to the writ petitioner by the Co-operative Society. However, the writ petitioner was an employee of the second respondent, Co-operative Society and the Co-operative Society is registered under the Tamil Nadu Co-operative Societies Act, 1983 is not a state within the meaning of the Article 12 of the Constitution of India.

5.Thus, no writ can be entertained against the order passed by the Co-operative Societies, so also a direction against the Societies. The legal principles in this regard was settled by the Larger Bench of this Court in the case of Marappan and others Vs. Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689.

6.The remedy lies to the writ petitioner under the provisions of the Tamil Nadu Co-operative Societies Act, more specifically under Section 153 of the Act. This being the factum of the case, the writ petition cannot be adjudicated on merits at this point of time and the writ petitioner is at liberty to exhaust the remedies available under the provisions of the Tamil Nadu Co-operative Societies Act.

7.Accordingly, the Writ Petition stands dismissed as not maintainable. However no order as to costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ah/ms

To

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

+lcc to the Government Pleader, Sr. 63047

+lcc to Mr.C.Munusamy, Advocate Sr. 62148

W.P.No.5885 of 2016

SSI (CO)
VR(26/09/2017)



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