



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2027

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) .No.757 of 2014
and
M.P. (MD) .No.1 of 2014

The Secretary,
Pattukkottai Primary Co-operative
Agricultural and Rural Development Bank Limited,
Pattukkottai,
Thanjavur District. : Appellant/ 3rd Respondent

Vs.

1.Sivasubramanian : 1st Respondent/Writ Petitioner

2.The Registrar of Co-operative Societies,
170, E.V.R. Highways,
Kilpauk, Chennai.

3.The Special Officer,
Pattukkottai Primary Co-operative
Agricultural and Rural Development Bank Limited,
Pattukkottai,
Thanjavur District. : Respondents 2 & 3 /Respondents 1 &2

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the judgment made in W.P.(MD).No.4473 of 2012 dated 22.04.2014 and allow the Writ Appeal.

Prayer in WP(MD) . 4473/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the Respondents to pay the amount of Rs.1,34,231/- which was deducted from out of the contribution made by the Petitioner to the Employees Provident Fund, which is in violation of section 78(2) (c) of the Tamil Nadu Co-operative Societies Act within the time stipulated by this Honourable Court along with interest.

For Appellant : Mr.S.Deenadhayalan

<https://hcservices.courts.gov.in/hcservices/> For Respondent No.1 : Mr.V.Chandrasekar

**J U D G M E N T**

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

This Writ Appeal is directed against the order dated 22.04.2014 allowing the W.P.(MD).No.4473 of 2012 filed by the first respondent herein.

2. According to the first respondent, he retired from the Appellant Bank in the year 2009. At the time of retirement, he was working as Secretary of the Bank. His salary was fixed on the basis of the settlement arrived at under Section 18(1) of the Industrial Disputes Act. Following the issuance of G.O.M.S.No.186, dated 16.08.2002, his salary was revised. This revision of salary and order of recovery of excess salary was the subject matter of writ proceedings before the High Court. The High Court disposed of the petitions and issued guidelines to the effect that recovery should be made only after giving opportunity to the employees concerned. Infact, till the writ petitioner retired from service, there was no deduction of salary. Thereafter, the sum of Rs.1,34,231/- was deducted from the contribution made by the writ petitioner towards Employees Provident Fund. This was questioned by the writ petitioner by filing the W.P.(MD).No.4473 of 2012. The learned Single Judge by order dated 22.04.2014 allowed the writ petition and directed the refund of the entire amount so deducted. It is against this order, the management had preferred the writ appeal.

3. The Hon'ble Supreme Court of India had laid down the norms with regard to recovery of excess amount erroneously paid to an employee. Judged by those parameters, the recovery made in the instant case can only said to be illegal and unfair. When no recovery was made till the writ petitioner was in service, effecting such a recovery after his retirement would certainly cause undue hardship. Deduction from the contribution of the Employees Provident Fund is also impermissible. Therefore, the learned Judge was right in allowing the writ petition.

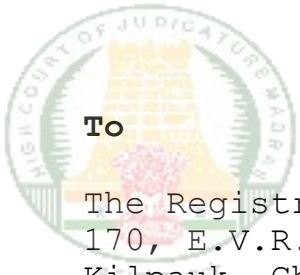
4. It is not the case of the appellant that there was any misrepresentation on the part of the writ petitioner which led to disbursing of excess amount. His salary was fixed only in terms of settlement arrived at under Section 18(1) of the Industrial Disputes Act.

5. We find no merit in this writ appeal. It stands dismissed. No costs. Consequently, the connected M.P.(MD).No.1 of 2014 is closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/



To

The Registrar of Co-operative Societies,
170, E.V.R. Highways,
Kilpauk, Chennai.

WEB COPY

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.70275
+1cc to Mr.V.CHANDRASEKAR Advocate in SR. No.70472
+1cc to Mr.S.DEENADHAYALAN Advocate in SR. No.69924

TSG/SKM
JS/GT/SAR.3/23.08.2017/3P-5C

Judgment made in
W.A. (MD) .No.757 of 2014
Dated: **02.08.2017**