



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.23307 of 2015

&

.P. (MD) No.1 of 2015

G.Rajendran

.. Petitioner

Versus

1.The Deputy Registrar,
Co-operative Societies,
Palani,
Dindigul District.

2.The President,
A.P.2, Tamil Nadu Arasu Health and
Family Welfare Department Employees
Co-operative Thrift & Credit Society,
Palani,
Dindigul District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the respondents to pay terminal benefits to the petitioner including provident fund and gratuity with interest at the rate of 18% from the date of retirement of the petitioner, within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.K.Guru

Additional Government Pleader

O R D E R

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the respondents to pay terminal benefits to the petitioner including provident fund and gratuity with interest at the rate of 18% from the date of retirement of the petitioner, within a time frame that may be fixed by this Court.

2.The petitioner was appointed as Office Assistant on 04.11.1990 in the second respondent Co-operative Society. Subsequently, his services were regularised by the second respondent in Na.Ka.No.1/97, dated 06.04.1997, pursuant to the resolution passed by him, in Resolution No.10, dated 16.10.1997, with effect from 01.03.1997. Thereafter, he was also appointed as



Accountant with effect from 01.03.1997 in the scale of pay of Rs.975-25-1150-30-1660 with the basic pay of Rs.975/-. He was also directed to deposit the amount as instructed, within a period of one month fixed by the Government.

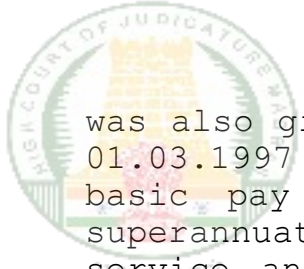
3. From the date of appointment and after regularisation of service, the petitioner was working without giving any room for complaints and finally, he was allowed to retire from service, by the second respondent, vide proceedings, dated 30.06.2013, on reaching the age of superannuation. Therefore, it is his claim that after his appointment to the post of Office Assistant on 04.11.1990, the second respondent has come forward to regularise his services, by his proceedings in Na.Ka.No.1/97, dated 06.04.1997, pursuant to the resolution passed by him, in Resolution No.10, dated 16.10.1997, with effect from 01.03.1997. After giving promotion to the post of Accountant, when he was permitted to retire from service on 30.06.2013, the respondents cannot raise any unsustainable objection for disbursement of gratuity, provident fund and other terminal benefits due to the petitioner. The order regularising the services of the petitioner clearly shows that his services in the post of Office Assistant also has been regularised. In the very same order dated 06.04.1997, it is made clear that the petitioner was promoted to the post of Accountant with effect from 01.03.1997 in the scale of pay of Rs.975-25-1150-30-1660 with the basic pay of Rs.975/-. Therefore, the prayer sought for by the petitioner deserves to be allowed, he pleaded.

4. In support of his claim, the learned counsel appearing for the petitioner relied on an order of this Court in the case of **A.Sengodan Vs. Registrar of Co-operative Societies, Chennai and others** reported in **2015 (6) MLJ 684**, wherein it has been observed that as per Section 79 of the Tamil Nadu Co-operative Societies Act, the gratuity earned by an employee for rendering service, cannot be withheld at the time of retirement.

5. A detailed counter affidavit has been filed by the second respondent.

6. Mr.K.Guru, learned Additional Government Pleader appearing for the respondents in support of the stand taken in the counter affidavit, would submit that the petitioner was appointed as Office Assistant and the said appointment was not made through the Employment Exchange. Moreover, he failed to possess necessary qualification at the time of appointment. Hence, he is not eligible for terminal benefits and also he is an irregular employee of the Society.

7. These contentions are bereft of any substance, for the reason that after his appointment to the post of Office Assistant on 04.11.1990 by the second respondent, a resolution was passed on 06.04.1997 by the second respondent. On the basis of the said resolution, his services were regularised. Moreover, the petitioner



was also given promotion to the post of Accountant with effect from 01.03.1997 in the scale of pay of Rs.975-25-1150-30-1660 with the basic pay of Rs.975/-. Finally, when he reached the age of superannuation on 30.06.2013, he was also permitted to retire from service and there was no impediment at any point of time in the services of the petitioner from the date of appointment till the date of retirement. Therefore, the respondents cannot take any hyper-technical stand to withhold the terminal benefits of the petitioner. The ratio laid down by this Court in **A.Sengodan's case** [cited supra], wherein it is held that gratuity and provident fund cannot be unnecessarily withheld at the time of retirement, squarely applies to the case of the petitioner.

8. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed. The respondents are hereby directed to disburse the gratuity, provident fund and other terminal benefits due and payable to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Registrar,
Co-operative Societies,
Palani,
Dindigul District.

2. The President,
A.P.2, Tamil Nadu Arasu Health and
Family Welfare Department Employees
Co-operative Thrift & Credit Society,
Palani,
Dindigul District.

+1cc to Mr.B.SARAVANAN Advocate in SR. No. 64218

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 64405, 64406

SMN2

JS/MR.KKR/SAR.1/15.09.2017/3P-5C

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