



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.16125 of 2017

and

W.M.P. (MD) No.12801 of 2017

M.Palanivel

... Petitioner

Vs.

1.The Management,
Tiruchirappalli District Central
Cooperative Bank Ltd., No.1 Fort Station Road,
Tiruchirappalli.

2.The Deputy Registrar of Cooperative Societies,
Kajamalai, Tiruchirappalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent pertaining to the order passed in ARC No.45 of 2015 dated 01.03.2016 and the consequential order passed by the learned Principal District Judge in CMA (CS) No.17/2016 dated 16.06.2017 and quash the same and consequently direct the 1st respondent to pay RS.46,334/- along with interest to the petitioner.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.D.Shanmuga Raja Sethupathi for R1
Mr.K.Guru

Additional Government Pleader for R2

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner, learned counsel for the 1st respondent and the learned Additional Government Pleader for the 2nd respondent.

3.This Writ Petition is directed against the impugned order dated 01.03.2016 passed by the Principal District Judge, Tiruchirappalli in CMS (CS) No.17/2016 under Section 152(1)(a) of the Tamilnadu Cooperative Societies Act, 1983, (hereinafter referred to as 'the Act') confirming the order passed under Section 90 of the Act passed by the Deputy Registrar of Cooperative Societies, Kajamalai in ARC No.45/2015 Trichy District, holding that the dispute relating to the service conditions of the employee or claim arising out of the employees of the Cooperative Societies cannot be entertained under Section 90 of the Act and the petitioner shall make his claim only under Section 153 of the Act.



4. The learned counsel for the petitioner would submit that when the first respondent failed to disburse the family pension fund, group savings life Insurance, Exgratia Pension (upto March 2014) and security deposit for a sum of Rs.46,334/- along with arrears of pension till date, the petitioner invoking section 90 (1)(c) of the Act filed ARC No.45/2015 before the Deputy Registrar of Cooperative Societies. Instead of accepting the prayer to disburse the family benefit fund, group savings life Insurance, Exgratia Pension and security deposit and arrears of pension, the 2nd respondent wrongly dismissed the claim of the petitioner holding that the dispute relating to the service conditions of the employee cannot be entertained under Section 90 of the Act. The said order has been questioned before the first respondent under Section 152(1)(a) of the Cooperative Societies Act. Misunderstanding the fact that the petitioner has asked only for retirement benefits, the Tribunal, which is constituted under Section 152(1)(a) of the Act, wrongly dismissed the same without comparing Sections 90 and 153 of the Act. Therefore, the same is liable to be set aside, it is pleaded.

5. The learned counsel for the 1st respondent urging this Court to dismiss the writ petition in the light of the ratio laid down by the Division Bench of this Court in **P.Eswara Moorthy and others v. R.J.B. Leoraj and others [2008(5) MLJ 238]** submitted that the issue is no longer res integra, when this Court in **K.Radhakrishnan v. Additional Registrar [2002(2) CTC 147]** has held that Section 90 of the Act is not available for the employees of the Cooperative societies against the order of termination and they are not related to the business of the Societies to invoke Section 90 of the Act and moreover the service conditions of the employees, which may be considered as a omission under special Byelaws of the Society should be decided under Section 153 of the Cooperative Societies Act, the writ petition is not maintainable.

6. I fully agree with the contention made by the learned counsel for the 1st respondent for, I am bound by the decision of the Division Bench reported in Eswaramoorthy's case holding that the service conditions of the employees working in the Cooperative Societies cannot be brought under Section 90 of the Act, as they are to be decided only by way of revision under Section 153 of the Act, hence, the Writ Petition is liable to be dismissed. Besides, Section 90 of the Act will not apply to the petitioner for settlement of his terminal benefits.

7. In the result, the writ petition is dismissed, with liberty to the petitioner to approach the respondents under Section 153 of the Act and if any such revision petition is filed under Section 153 of the Act, the same shall be disposed of within three months



from the date of receipt of a copy of this order. No costs.
Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(crl side)

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/True Copy/

Sub Assistant Registrar

To

- 1.The Management,
Tiruchirappalli District Central
Cooperative Bank Ltd.,No.1 Fort Station Road,
Tiruchirappalli.
- 2.The Deputy Registrar of Cooperative Societies,
Kajamalai, Tiruchirappalli.

+1cc to M/S.D.SHANMUGARAJA SETHUPATHI, Advocate SR.No.76434
+1cc to M/S.S.C.HEROLD SINGH, Advocate SR.No.76345
+1cc to Special Government Pleader, SR.No. 76618

RR

MAS/KP/SAR1:13.10.2017:3P-6C

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