

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8067 of 2018

M.Murugesan

...Petitioner

Vs

1.The State of Tamil Nadu
Rep by its Secretary to Government
Co-operation, Food Consumer Protection Department
Secretariat, Fort St.George
Chennai - 600 009.

2.The Registrar of Co-operative Societies
Kilpauk, Chennai - 600 010.

3.The Deputy Registrar of Co-operative Societies
Sangakiri Region
Salem District.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, directing the respondents to pass orders for revision of scale of pay of the petitioner as per circulars issued by the second respondent in circular No.1 of 2010 dated 11.01.2010 and subsequent circular No.7/2014 dated 28.02.2014, by considering the representation submitted by the petitioner dated 10.03.2016 and 01.07.2017 with all consequential and other attendant benefits along with interest, within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents: Mr.L.P.Shanmugasundaram
Special Government Pleader [Co-op]

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to pass orders for revision of scale of pay of the petitioner as per circulars issued by the second respondent in circular No.1 of 2010 dated 11.01.2010 and subsequent circular No.7/2014 dated 28.02.2014, by considering the representation submitted by the petitioner dated 10.03.2016

and 01.07.2017 with all consequential and other attendant benefits along with interest.

2.The writ petitioner was initially appointed as Clerk on 01.09.1976 in Chittur Primary Agriculture Co-operative Bank Ltd., promoted as Senior Clerk on 01.04.1988, Assistant Secretary on 21.01.1991 and further promoted as Secretary on 18.09.1993. The petitioner attained the age of superannuation on 31.05.2014 and retired from service. At the outset the present writ petition is filed after a lapse of about 4 years from the date of his retirement.

3.Though the writ petitioner was an employee of a co-operative society, he has not chosen to implead the management of the co-operative society. The writ petitioner has not preferred any statutory revision petition under the provisions of the Tamil Nadu Co-operative Societies Act, 1983.

4.On perusal of the entire affidavit, this court is of an opinion that the writ petitioner has intentionally not impleaded the management of the co-operative societies.

5.This Court is of the view with regard to the maintainability of the writ petition, the Court has to look into the legal principles settled by the Larger Bench of this Court, in the case of K.Marappan Vs. The Deputy Registrar of Co-operative Societies and another reported in 2006 (4) CTC 689.

6.The writ petition is filed as if a direction is sought for against the Secretary to Government and the Registrar of Co-operative Societies. The writ petitioner is not an employee of the State Government. He was an employee of a co-operative society and retired from service. Therefore, this court has found that filing of such a writ petition by not impleading the management of a co-operative society is improper and such an action of the writ petitioner is to be deprecated. The writ petitioner has retired from service in the year 2014. The services of an employee with the co-operative society is a non-pensionable service. Thus, the employer and employee relationship ceased after retirement. If at all any grievances exist in respect of pay and allowances or any other retirement and terminal benefits, the writ petitioner has to approach the appropriate competent authority under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. Without exhausting the remedies under the Act no writ can be entertained.

7.This court would like to place on record the manner in which the writ petitioner has approached this court without impleading the management of the co-operative society as party respondent and such attitude deserves to be contemned.

8.However,the writ petitioner is at liberty to approach the competent authority in order to exhaust the remedy available under the Tamil Nadu Co-operative Societies Act, 1983. Thus, no further adjudication on merits in respect of the grievances needs to be undertaken in this writ petition.

9.In this view of the matter, the writ petition stands dismissed as not maintainable. However, there is no order as to costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

may a

To

- 1.The Secretary to Government
Co-operation, Food Consumer Protection Department
Secretariat, Fort St.George
Chennai - 600 009.
- 2.The Registrar of Co-operative Societies
Kilpauk, Chennai - 600 010.
- 3.The Deputy Registrar of Co-operative Societies
Sangakiri Region
Salem District.

W.P.No.8067 of 2018

sj (co)
nr 24/04/2018

सत्यमेव जयते

WEB COPY