

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

C O R A M

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

Writ Petition No.1961 of 2014
& MP.No.1 of 2014

M.Dhanajeyan,
S/o.Munnuswamy,
Nedumipaalayam Village,
Ramanaayeni Kuppam Post,
Ambur Taluk,
Vellore District.

... Petitioner

Vs.

1. The Joint Registrar,
Tamil Nadu Co-operative Societies,
Vellore Zone.
 2. The President,
C2505 Arimalai Primary,
Agricultural Loan Co-operative Society,
Nedumipaalayam,
Ambur Taluk-632 107.
 3. The Secretary,
C2505 Arimalai Primary,
Agricultural Loan Co-operative Society,
Nedumipaalayam,
Ambur Taluk-632 107.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of certiorari Mandamus directing to call for the records in Na.Ka.6396/2013 A2 dated 24.09.2013 on the file of the first respondent and quash the same as arbitrary, illegal and unjustifiable and direct the second respondents to reinstate the petitioner in the service.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Co-operative)

O R D E R

The present Writ Petition is filed challenging the order passed by the 1st respondent/Tamil Nadu Co-operative Societies dismissing the revision petition filed by the petitioner challenging the order, permitting the petitioner to retire from the post of Night Watchman in the 3rd respondent Co-operative Society.

2. According to the petitioner he working as a Night Watchman in the 2nd respondent/Society. On 08.06.2013, the petitioner was compelled to resign the post of Night Watchman, even though, the petitioner has further tenure of two more years. In the said circumstances, the revision petition has been filed against the said order, permitting the petitioner to retire from service, the revision was dismissed stating that the petitioner was retired from service on his own and without any compulsion and he cannot challenge the order. Non-challenging the said order, the present writ petition has been filed.

3. The petitioner was working as Night Watchman in the 3rd respondent/Co-operative Society from the year 1987. Due to health reasons, the petitioner has submitted an application to the 3rd respondent/Co-operative Society on 08.06.2013, expressing his willingness to resign from the post and the above resignation letter was placed before the board. On 10.06.2013, the Board has also accepted the resignation letter and permitted the petitioner to retire from service. Thereafter, the petitioner has filed an application on 10.06.2013 seeking for retirement benefit like gratuity, bonus, EPF, Surrender. Based on the above request, in and by proceedings dated 01.07.2013, Co-operative Society sanctioned a sum of Rs.2,12,596/- as gratuity and the petitioner has also received the said amount on 01.07.2013 itself. After the receipt of the entire amount, on 19.08.2013, the petitioner sent a representation to the 2nd respondent/Agricultural Co-operative Society to convert his resignation into Voluntary Retirement and also pay the retirement benefit. Simultaneously, the petitioner has also filed the revision before the 1st respondent/Tamil Nadu Co-operative Societies and now the 1st respondent has passed an impugned order, dismissing the revision holding that the petitioner has voluntarily given his resignation letter and also accepted the retirement benefit.

4. Considering the rival submissions and also the materials available on record.

5. On perusal of the records, it is seen that petitioner had submitted a resignation letter on 08.06.2013 and it was accepted by the Board on 10.06.2013, the petitioner was also permitted to retain from the service from that date. Thereafter, at his request, the gratuity amount liable to the petitioner was also paid and he has received the amount on 01.07.2013. After sometime, he has submitted an application to treat the resignation as Voluntary retirement. Thereafter the petitioner came now with a new plea that he has been compelled to give resignation letter, which is not at all permissible as in is only an afterthought, considering all the above circumstances the 1st respondent rightly dismissed the revision petition. I find no illegality in the order.

6. The learned counsel appearing for the petitioner submitted that the petitioner was paid with gratuity only and other benefits payable was not paid to the petitioner, which was disputed by the learned counsel appearing for the respondent. In such circumstances, the petitioner is directed to approach the 2nd respondent to make a proper application seeking for the payment of any amount payable to the petitioner. On receipt of the such application, the 2nd and 3rd respondents is directed to consider the same and pass suitable order.

7. With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

bsm

To

The Joint Registrar,
Tamil Nadu Co-operative Societies,
Vellore Zone.

+1cc to Mr.C.Prakasam, Advocate SR.No.79880

+1cc to Mr.L.P.Shanmugasundram, Advocate SR.No.79789

+1cc to Government Pleader SR.No.80489

W.P.No.1961 of 2014

SS (CO)
GMY (29/01/2019)