

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 12.09.2018

CORAM
THE HONOURABLE Mr.JUSTICE SATRUGHANA PUJAHARI

W.P.No.28220 of 2016

S.Devasagayam

... Petitioner

Vs

1.SL(SPL) 162, SPB Employees
Co-op Thrift & Credit Society
SPB Colony, Erode - 638 010
represented by the President.

2.Deputy Registrar of Co-op Societies
Thiruchengode Circle
Thiruchengode
Namakkal District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to directing the 1st respondent society to pay interest at 18 percent per annum to the petitioner for a sum of Rs.2,20,500/- from 31.01.2009 to 20.10.2012, and for a sum of Rs.42,718 from 21.10.2012 till the date of actual payment of interest.

For petitioner : Mr. Jeyaram

For respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader
(Co-operative society)

ORDER

The grievance of the petitioner in this case is that he was retired from Co-operative service on 31.01.2009 and the retiral benefit relating to gratuity was not paid to him either on the date of his retirement or within thirty days from the date of his retirement. But, the same having been paid in the year 2012 in two instalments at Rs.1,77,782/- on 20.10.2012 and Rs.42,718/- on 19.03.2013. Challenging such delayed payment of gratuity amount, the petitioner in this regard has sent a representation to the 1st respondent society for claiming 18% interest towards gratuity. Since no response is forthcoming, the petitioner came forward to file this writ petition seeking a direction to the 1st respondent society to pay interest at 18% per annum from the date of payment till the date of actual payment.

2. The learned counsel for the petitioner drawn the attention of this Court to the decision of the Hon'ble Supreme Court D.D.Tewari (Dead) Through Legal representatives Vs. Uttar Haryana Bijli Vitran Nigam Limited and Others reported in (2014) 8 Supreme Court Cases 894 wherein it has been held as follows :

5. It is needless to mention that the respondents have erroneously withheld payment of gratuity amount for which the appellants herein are entitled in law for payment of penal amount on the delayed payment of gratuity under the provisions of the Payment of Gratuity Act, 1972. Having regard to the facts and circumstances of the case, we do not propose to do that in the case in hand.

6. For the reasons stated above, we award interest at the rate of 9% on the delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment. If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 18% per annum from the date of amount falls due to the deceased employee. With the above directions, this appeal is allowed.

Drawing notice of this Court to the aforesaid law laid down, it is submitted by the learned counsel for the petitioner that the first respondent be directed to pay interest for such delayed payment of gratuity.

3. Mr.L.P.Shanmugasundaram, learned Special Government Pleader submits that originally the gratuity was not made applicable to the petitioner's society and as such there was delayed payment. Hence, the delay in payment of the gratuity being not a deliberate act, the petitioner is not entitled to the relief sought for.

4. After hearing the learned counsel for the parties and going through the materials on record, however this Court dispose of this writ petition with the direction to the first respondent, if there was delay in release of the gratuity in favour of the petitioner, which not attributable to the petitioner in any manner, it goes without saying that the petitioner is entitled to interest at the rate of 9% from the date the same fell due for payment till the amount was paid. Accordingly, the first respondent is directed to release the interest calculating the same at the aforesaid rate till the date of payment of the gratuity, within a period of three months

from the date of receipt of a copy of this order, if there is no other legal impediment. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mp/rka

To

1.The President,
SL(SPL) 162, SPB Employees
Co-op Thrift & Credit Society
SPB Colony, Erode - 638 010

2.Deputy Registrar of Co-op Societies
Thiruchengode Circle
Thiruchengode
Namakkal District.

+1cc to the Government Pleader, Advocate, SR.No.64627

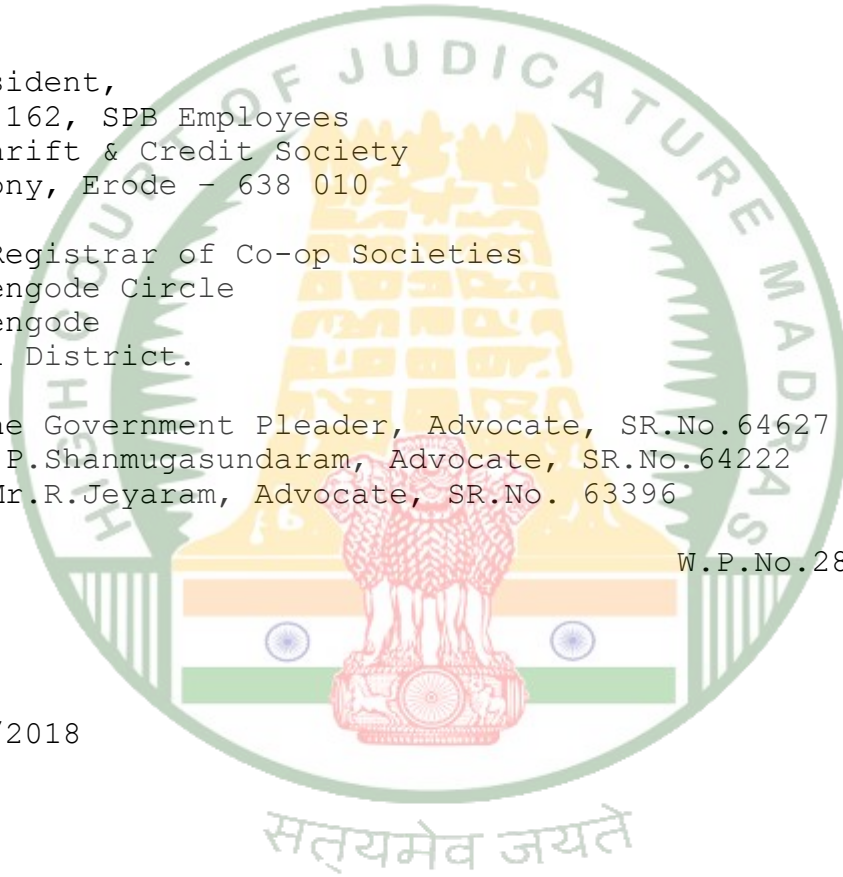
+1cc to L.P.Shanmugasundaram, Advocate, SR.No.64222

+2ccs to Mr.R.Jeyaram, Advocate, SR.No. 63396

W.P.No.28220 of 2016

RJ(CO)

rrs 16/10/2018



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