

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9599 of 2017

C.Rajendran

... Petitioner

vs.

1.The Zonal Joint Registrar of
Co-operative Societies,
Having Office at
Saravanapava Co-operative Supermarket
Complex, Beach Road, Cuddalore,
Cuddalore District - 607 001.

2. The President,
E-1133, Komaratchi Primary Agricultural
Co-operative Credit Society Limited,
Komaratchi and Post,
Kattumannarkoil Taluk,
Cuddalore District - 608 302.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus calling for records of the 1st respondent herein in his proceeding No.Aa.Thi.Mu.No.3489/2016,Thu. Va. Tha.1 dated 14.07.2016 and quash the same and consequently direct the 1st respondent to entertain the petitioner's revision dated 28.06.2016 which has been preferred seeking settlement of retirement benefits with effect from 30.01.2016 together with interest at the rate of 24% per annum with effect from 30.01.2016 till the date of realization.

For Petitioner : M/s.K.Raja

For Respondents : Mrs.T. Girija for R1
Mr.L.P.Shanmugasundaram
Spl.Government Pleader for R2

O R D E R

The relief sought for in this present writ petition is to call for the records in respect of the order passed by the respondents in proceeding dated 14.07.2016 and quash the same

and direct the first respondent to entertain the revision petition filed by the writ petitioner on 28.06.2016 in respect of the claim of the writ petitioner to settle the retirement benefits with effect from 30.01.2016 together with interest.

2. The writ petitioner was employed as an Assistant Secretary in the 2nd respondent Co-operative Societies and attained age of superannuation on 30.01.2016. He was holding the post of Secretary in-charge on the date of the retirement. Accordingly, he was relieved from the post on the date of his retirement. However, the pensionary and retirement benefits as applicable has not been settled in respect of the writ petitioner on account of the pendency of the disciplinary proceedings initiated against him.

3. The learned counsel for the writ petitioner states that, he preferred a revision petition before the first respondent, Zonal Joint Registrar to inquire the matter and pass orders on merits in respect of the settlement of his terminal benefits in accordance with law. However, the first respondent rejected the revision petition filed by the writ petitioner stating that, the writ petitioner has not challenged any order in the revision petition and therefore, the revision petition filed by the writ petitioner was returned back to the writ petitioner. Challenging the order, the present writ petition has been filed.

4. The merits raised in the present writ petition need not be adjudicated, in view of the fact that the scope of the revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act has been decided by this Court in W.P.No.16904 of 2015 dated 21.09.2017. Pursuant to the orders of this Court, the Registrar, Co-operative Societies, Kilpauk, Chennai issued the circular No.13 of 2017 dated 06.11.2017. As per the circular para 5 (iii), "There is no specific mandate in sub-section (1) of Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, requiring to entertain revision under that sub-section only against final order to be adjudicated. Thus, it is very clear that even if no final orders / no orders are passed by the Management of the Co-operative Societies, the Registrar, shall invoke the powers conferred on him under Section 153 of the Act"

5. Admittedly, the powers of the Registrar under the Tamil Nadu Co-operative Societies Act has been delegated to the Regional Joint Directors under the provisions of the Act. This being the legal principles settled by this Court which was implemented by the Registrar by way of circular No.13 of 2017. The first respondent has to be adjudicated the revision petition on merits by providing opportunity to the writ petitioner and pass orders in accordance with law. Thus the impugned order

passed by the first respondent in proceeding No.Aa.Thi.Mu.No.3489/2016,Thu Va Tha.1 dated 14.07.2016 is quashed.

6. The matter is remitted back to the first respondent for re-adjudication by the providing opportunities to all the parties concerned and decide the revision petition on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. Writ petition stands allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Zonal Joint Registrar of
Co-operative Societies,
Having Office at
Saravanapava Co-operative Supermarket
Complex, Beach Road, Cuddalore,
Cuddalore District - 607 001.
2. The President,
E-1133, Komaratchi Primary Agricultural
Co-operative Credit Society Limited,
Komaratchi and Post,
Kattumannarkoil Taluk,
Cuddalore District - 608 302.

+1cc to M/S.L.P.Shanmugasundaram, Advocate Sr.70506
+1cc to the Government Pleader Sr.70115
+1cc to Mr.K.Raja, Advocate Sr.69565

W.P.No.9599 of 2017

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srg 02/11/2018