

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.12.2018

CORAM:

THE HON'BLE DR. JUSTICE S.VIMALA

Writ Petition No.32102 of 2018

R.John Bosco

.. Petitioner

- Vs -
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- 1 The State of Tamil Nadu
Secretary to Government, Housing and Urban
Development Department Secretariat Chennai- 9
- 2 The Registrar of Co-operative societies (Housing)
Tamilnadu Co-operative Housing Federation
No.48 Rethertion Road, Veperi Chennai-7
- 3 The Deputy Registrar of Co operative societies (Housing)
Virudunagar, Zone Virudunagar and District
- 4 The Secretary MDA HSG
103 Thiruppattur Taluk Co-op Housing society (Ltd)
Thiruppattur Sivaganga District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st respondent to consider the representation of the petitioner dated 19.3.2018 and to pass orders on the same in regard to granting aid to the 4th respondents society so as to disburse retirement benefits of the petitioner.

For Petitioner : Mr. G.Elanchezhiyan
For Respondent : Mr. A.N.Thambidurai, Spl.G.P., for R-1
Mr. L.P.Shanmugasundaram, for R-2 to R-4.

O R D E R

The first respondent herein has passed an order stating that, for the past 15 years there had not been any audit and as the audit report is expected, the petitioner is not permitted to retire from service, but the petitioner has been ordered to be discharged from service.

2. It is the claim of the petitioner that he was initially appointed as Clerk, in the third respondent Society, on 23.07.1979 and thereafter promoted as Accountant and as Secretary and on attaining the age of superannuation, he was not permitted to retire from service on 31.01.2013. After the retirement, he was paid only EPF amount of Rs.3,75,000/-, the security deposit of Rs.18,699/- and the arrears of salary of Rs.30,000/-. However, the other retirement benefits to the tune of Rs.19,93,763/- had not been paid.

2.1. Hence, the petitioner made a representation to the respondents to disburse the retirement benefits due.

2.2. However, the second respondent has passed an order stating that as soon as the financial position of the society is restored, the retirement benefits of the petitioner will be settled in a phased manner.

3. The contention of the learned Special Government Pleader and the learned Standing Counsel appearing for the respondents is that, because of the expected audit report, the retirement benefits are not paid to the petitioner. In other words, the learned counsel submitted that the financial position of the respondents Society is not good and therefore they are not able to pay the retirement benefits.

4. This Court is of the opinion that, without the audit report made available indicating any non-feasons or mis-feasons on the part of the petitioner herein, it is not open to the respondents to decline the retirement benefits to the petitioner.

5. The learned counsel appearing for the petitioner would submit that in the interest of people, the Government should interfere in this issue and take a decision to revive the society. So stating the petitioner has submitted a representation to the first respondent on 19.03.2018 with a request to interfere with the affairs of the society and grant subsidy to the society, conduct the business and to pay the terminal benefits to its employees.

6. In the stated circumstances, the respondents are directed to consider the representation, dated 19.03.2018, preferred by the petitioner and pass appropriate orders, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1 The State of Tamil Nadu
Secretary to Government, Housing and Urban
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 - 4 The Secretary MDA HSG
103 Thiruppattur Taluk Co-op Housing society (Ltd)
Thiruppattur Sivaganga District
- +1cc to Mr.G.Elanchezhiyan, Advocate, S.R.No.89688
- +1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.594
- +1cc to the Government Pleader, S.R.No.90030

W.P.No.32102 of 2018

VGII(CO)
GSP(15/02/2019)

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