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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.10.2018

CORAM:
THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.20760 of 2018
and
WMP(MD)Nos.18515 & 18516 of 2018

K.Ramabai

... Petitioner

Vs.

1.The Principal Accountant General (A&E) Tamil Nadu,
Thenampet, Annasalai,
Chennai - 600 018.

2.The Director of Social Welfare,
Directorate of Social Welfare,
Panagal Maligai 2nd Floor,
Saidapet, Chennai.

3.The District Social Welfare Officer,
Dindigul District,
Collectorate, Dindigul.

4.The Block Development Officer,
Oddanchattiram Panchayat Union,
Oddanchattiram,
Dindigul District,

5.The Sub-Treasury Officer,
Office of the Sub-Treasurer,
Oddanchattiram,
Dindigul District.

6.The President
Social Welfare Department Co-operative
Thrift and Credit Society,
Chepauk, Chennai - 600 005.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, by calling for the records pertaining to the impugned proceedings in Se.Mu.Na.Ka.No.3313/A1/2011, dated 20.06.2018 passed by the 3rd respondent and quash the same as illegal and invalid.

For Petitioner

For Respondent-1

For Respondents

: Mr.K.Kannan

: Mr.P.Gunasekaran

: Mr.R.Sethuraman

Spl.Govt.Pleader

O R D E R

The petitioner has come forward with the present Writ Petition for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned proceedings in Se.Mu.Na.Ka.No.3313/A1/2011, dated 20.06.2018, passed by the 3rd respondent and quash the same as illegal and invalid.

2. The petitioner, who was working as an officer under the 3rd respondent, had retired from service on 30.06.2011. During her service, she availed loan, which according to the petitioner, she had repaid periodically. The further contention of the petitioner is that, if any amount was not paid due to the respondents, by the petitioner, the respondents ought to have brought to her notice before her retirement and they ought not to have allowed the petitioner to retire from the service. The 6th respondent cannot deduct any amount from the pensionary benefits. Since the action of the 3rd respondent in passing the impugned order, dated 20.06.2018, directing the Authority concerned to deduct a sum of Rs.1,11,230/- from the Death-cum-Retirement Gratuity amount, towards the loan amount obtained from the Thrift Society and to deposit the same to the account number of the Society, is illegal and liable to be interfered with.

3. Even though no counter affidavit has been filed, the learned Special Government Pleader appearing for the respondents would contend that the petitioner has sought the relief indirectly against the 6th respondent Society, which is not maintainable, in the light of the Larger Bench Judgment of this Court in Marappan K. v. The Deputy Registrar of Co-operative Societies, Namakkal, reported in [2006(4) CTC 689]. That apart, the petitioner has availed the loan from the Thrift Society, which is an admitted fact, and that on 26.12.2017, she was asked to deposit a sum of Rs.2,12,431/-, including interest. In terms of Rule No.70 of Tamil Nadu Pension Rules, 1978, if a person is allowed to retire, the amount due can be adjusted from the terminal benefits. Rule 70 of the Tamilnadu Pension Rules 1978 reads as follows:-

"Recovery and adjustment of Government dues:-

(1) It shall be the duty of every retiring Government servant to clear all Government dues before the date of his retirement.

(2) Where a retiring Government servant does not clear the Government dues and such dues as ascertainable-

(a) an equivalent cash deposit may be taken from him; or



(b) out of the gratuity payable to him an amount equal to that recoverable on account of ascertainable Government dues shall be deducted therefrom".

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4. He further submitted that the petitioner, being a Government servant, in terms of the Rule 70 of the Tamilnadu Pension Rules 1978, extracted supra, is bound to pay the amount, failing which, the amount can be deducted from the Death-cum-Retirement Gratuity amount of the petitioner. He also submitted that the provision of the Payment of Gratuity Act, is not applicable to the writ petitioner. Therefore, prayed for dismissal of the Writ Petition.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. It is not in dispute that the petitioner was employed as Social Welfare Officer and availed a loan of Rs.3,00,000/- out of which she re-paid only a part amount and the balance amount along with interest, totally a sum of Rs.2,12,431/-, has got to be paid by the petitioner to the Society. In terms of Rule No.70 of Tamil Nadu Pension Rules, 1978, the Authority can deduct the amount from the terminal benefits of the petitioner, to adjust the loan availed. The contention of the petitioner that she being allowed to retire, the alleged amount cannot be adjusted from the terminal benefits, cannot be accepted. If the contention of the petitioner is accepted, no loan amount can be recovered from any of the staff and that the provision for grant of loan to the employee either by the employer or by the Co-operative Society will have to be stopped in its entirety. Hence, the impugned order passed by the 3rd respondent, dated 20.06.2018, is perfectly valid, legal and no interference is called, in the considered opinion of this Court.

7. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)



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- 6.The President
Social Welfare Department Co-operative
Thrift and Credit Society,
Chepauk, Chennai - 600 005.

- 1 CC TO Mr.P.GUNASEKARAN , ADVOCATE IN SR No. 88891.
- + 1 CC TO Mr.K.KANNAN , ADVOCATE IN SR No. 88538.
- +1 cc to Special Government Pleader, SR.No.88509.

MPK

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W.P. (MD) No.20760 of 2018

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