



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.1666 of 2015
and
M.P. (MD) .No.1 of 2015

A.Gnanaprakasam

... Petitioner

Vs.

1. The Registrar,
Registrar of Co-operative Societies,
Kilpauk,
Chennai-600 010.
2. The Joint Registrar,
The Joint Registrar of Co-operative Societies,
Thanjavur.
3. The Deputy Registrar,
Deputy Registrar of Co-operative Societies,
Thanjavur Circle.
4. The President,
OT 1916, Thanjavur Noon Meal Employees,
Co-operative Thrift and Credit Society Limited,
Thanjavur.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to implement the settlement order dated 12.12.2013 concluded under Section 12(3) of the Industrial Disputes Act, 1947, entered into between the Management and the employees of O.T. 1916 Thanjavur Noon Meal Employees Co-operative Thrift and Credit Society Limited, Thanjavur Circle.

For Petitioner : Mr.G.Punniyakotti

For Respondents : Mr.K.Saravanan For R1 to R3
Government Advocate
: Mr.S.Kumar for R4

**ORDER**

Heard the learned counsel on either side.

2.The petitioner is working as Secretary in the fourth respondent/ Society. The settlement under Section 12 (3) of the Industries Disputes Act, 1947, was entered into on 12.12.2013 between the management of the society and the petitioner in the presence of the Labour Officer, Thanjavur. Thereafter, the pay of the petitioner was revised. He was getting the revised pay for about nine months. Thereafter, the Deputy Registrar/ third respondent intervened and pointed out that before entering into Section 12(3) settlement, as per the circular dated 07.12.2010 issued by the Registrar of Co-operatives Societies, the concerned Deputy Registrar, should vet the same. Therefore, the very implementation of the said Section 12(3) settlement became illegal. The petitioner's pay was down graded. The petitioner now seeks implementation of the aforesaid settlement dated 12.12.2013. This Court is unable to agree with the said submission. The said settlement could have been entered only with the prior concurrence of the Deputy Registrar of Co-operative Societies. In this case, such clearance was not obtained. Therefore, the very entering into very settlement is not correct in law. Hence, the direction sought for the petitioner cannot be granted. At the same time, this Court is of the view that the petitioner cannot be faulted for the misconduct committed by the management of the Society.

3.The learned counsel for the petitioner submits that the society is running at profit. He is managing the Society as a single person. Directing recovery from his salary when he is not guilty of any misappropriation will certainly cause irreparable hardship. The Hon'ble Supreme Court in the decision reported in **2014 8 SCC 883 (State of Punjab Vs. Rafiq Masih)** held that recovery ought not to be ordered, in case where irreparable hardship will be caused to the employee concerned when the employee is not at fault. Following the said decision, there will be a direction to the respondents not to recover any pay awarded to the petitioner in terms of the said settlement dated 12.12.2013. It is open to the respondents to obtain permission of the Deputy Registrar of Co-operative Societies and enter into a fresh settlement.

4.With this direction, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)



1. The Registrar,
Registrar of Co-operative Societies,
Kilpauk,
Chennai-600 010.

2. The Joint Registrar,
The Joint Registrar of Co-operative Societies,
Thanjavur.

3. The Deputy Registrar,
Deputy Registrar of Co-operative Societies,
Thanjavur Circle.

+ 1 CC TO Mr.G.PUNNIYAKOTTI, ADVOCATE IN SR No. 43891
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 44609

TSG

TE/SV-MMS/SAR-3 : 08/03/2018 : 3P/6C

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