

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 20.11.2018****CORAM :****THE HONOURABLE MR.JUSTICE C.SARAVANAN****W.P.(MD)No.4608 of 2014**

WEB COPY

D.Arumugam

... Petitioner

vs.

1. The Assistant Director,
Handloom Textiles,
Panchavarna Kovil Street,
Uraiyur, Trichy,
Trichy District.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the order passed by the respondent in Na.Ka.940/2013/D dated 13.06.2013 and quash the same and consequently direct the respondent to pay the old age pension to the petitioner.

For Petitioner

: Mr.C.Vakeeswaran

For Respondent

: Mr.R.Murugan, AGP

ORDER

This writ petition has been filed to quash the order passed by the respondent in Na.Ka.940/2013/D dated 13.06.2013 and direct the respondent to pay the old age pension to the petitioner.

2.The petitioner became the member of the R-583, Thuraiyur Handloom Weavers Production and Sales Society on 07.06.1989 and was removed from its membership from 07.11.2003 on the ground that he had not paid the subscription amount for a period of more than 6 months in terms of the Tamil Nadu Cooperative Handlooms Weavers Family Pension Scheme 1981.

3.The learned counsel for the petitioner submits that the order dated 07.11.2003 removing the petitioner from the said Society was not communicated and therefore, the present writ petition came to be filed in the year 2014.

4.The respondent has filed a counter, wherein, they have stated that the allegation that the Society was not functioning between January 2003 to November 2003 is incorrect and the Society was indeed functioning effectively. But, the petitioner did not approach the Society for employment and that there was no representation from the petitioner and therefore, the petitioner was removed from the membership of the Savings and Security Scheme on



07.11.2003 by a resolution dated 07.11.2003 in No.4, due to non-continuance of service in the Society.

5.The learned counsel appearing for the petitioner submits that as per Rule 7 of the Tamil Nadu Co-operative Handloom Weavers Family Pension Rules, person becomes eligible to be admitted to the scheme, if he has been engaged in weaving for the Society for a minimum period of 5 years on the date of his application. In this case, admittedly, the petitioner was on the rules of the Society since 1989 and certainly after the aforesaid rule came into force in the year 1992, the petitioner has been regularly contributing under the scheme.

6.The removal of the petitioner is to be in terms of Rule 9 of the aforesaid Rule, which contemplates that if a member stays away from work continuously for a period exceeding 6 months or so may be removed or if the member defaults in the payment of subscription for a continuous period exceeding 6 months or if the member becomes disqualified to continue as a member of the Society or if the member completes the age of 58 years.

7.Rule 11 deals with amount and the period of family pension, which read as under:

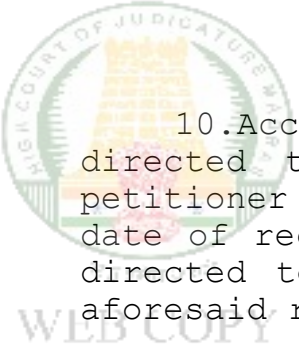
"11.Amount and the period of Family Pension. - (1)The quantum of family pension shall be Rs.250(two hundred and fifty) per month, payable for a maximum period of 10(ten) years.

(2)Subject to the provisions of Rule 12, Family Pension shall be payable on the death of a Member, who continue to be covered by the Scheme, to one or more Members of the family of the deceased, nominated by the Member and in case, if no nominated Members are alive, to the Member or Members of the family, who are the legal heirs as determined by the Authorised Officers, in equal proportion.

(3)The death of a Member for the purpose of sub-rule (2) shall be due to natural causes or unexpected accidents. The family of a Member, who died due to suicide shall not be entitled for the family pension, under the Scheme."

8.In this case, on its facts, the petitioner has been in service of the said Society since 1989, which has not been disputed by the respondent in their counter and there is no averment that the petitioner has not made contribution, except the period when he allegedly absented.

9.In view of the same, I am of the view that even if the petitioner has seized to be a member of the Society since 07.11.2003, he would be entitled pension as per Rule 11 of the Pension Scheme.



10. Accordingly, this petition is allowed. The respondent is directed to calculate the pension and pay the arrears to the petitioner with 7.5% interest, within a period of 6 weeks from the date of receipt of a copy of this order and the respondent is also directed to continue to pay pension to the petitioner as per the aforesaid rules. No costs.

Sd/-
Assistant Registrar(RECORDS)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Assistant Director,
Handloom Textiles,
Panchavarna Kovil Street,
Uraiyur, Trichy,
Trichy District.

+1cc to SPL.Govt.Pleader, Sr.No.96307

+1cc to Mr.C.Vakeeswaran, Advocate Sr.No.96142

ARUL

KM/BK/SAR3/19.12.2018/3P/4C

W.P. (MD) No. 4608 of 2014
20.11.2018