



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2018

CORAM:

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THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

W.P. (MD) No.85 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015 and

W.M.P (MD) No.14602 of 2016

S.Rajendran

... Petitioner

vs.

1. The Registrar of Cooperative Societies,
Kilpauk, Chennai 600 010.
2. The Joint Registrar of Cooperative Societies,
Government Multi Department Complex,
Theni.
3. The Deputy Registrar of Cooperative Societies,
Uthamapalayam, Theni District.
4. The President,
DD158 Bodinaickanur Uzhavar pani,
Cooperative Kadan Sangam Ltd.,
Bodi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorified Mandamus, to call for the records relating to the impugned order of the fourth respondent dated 29.10.2014 refusing to disburse the terminal benefits payable to the petitioner and quash the same and consequently direct the respondents herein to disburse the entire terminal-cum-retirement benefits, leave salary and arrears of 50% salary payable on the retirement of petitioner on 31.01.2012 as per the Service Register of fourth respondent together with interest at 6% p.a. with effect from 31.01.2012 as per the representation of the petitioner dated 21.04.2014 in the light of Circular of the first respondent vide circular No.7 of 2014 dated 28.02.2014 within a reasonable time as may be fixed by this Court.

For Petitioner	:	Mr.K.Appadurai
For R-1 to R-3	:	Mr.J.Gunaseelan Muthiah, Additional Government Pleader
For R-4	:	No appearance

**ORDER**

The writ petitioner herein joined the fourth respondent society on 17.02.1972 as a Clerk, his service was later regularized and after 14 years, he was retired as Manager on 31.01.2012.

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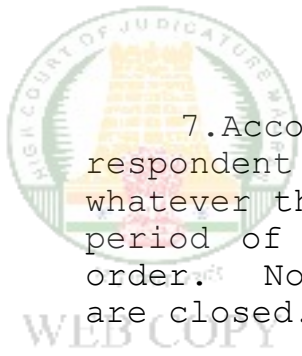
2.The present writ petition is filed seeking a writ of certiorarified mandamus to quash the impugned order passed by the President of Bodinaickanur Uzhavar pani Cooperative Kadan Sangam Limited, who is the fourth respondent herein. The said impugned order is passed pursuant to the direction issued by this Court in a writ petition seeking a writ of mandamus directing the fourth respondent to consider the representation of sanctioning retirement benefits to the writ petitioner.

3.A perusal of the impugned order which has denied the retirement benefits to the writ petitioner, indicates that the petitioner herein as a Manager has not conducted the affairs of the Society properly . Hence, it has lead to huge loss to the Society. Further, it is also stated in the impugned order that when the writ petitioner was serving as Manager, he denied the retirement benefits for seven staff of the Society who attained superannuation, citing the financial position of the Society. Therefore, considering the huge loss incurred to the Society, the writ petitioner is not entitled for any retirement benefit.

4.In the counter filed by the respondents 2 to 4, the mismanagement of the writ petitioner as Manager of the Society, is quoted as a reason for depriving the retirement benefit. It is also stated in the counter filed by the third respondent that the writ petition against the Co-operative Society is not maintainable, since there is an alternate remedy.

5.This Court is bound to reject the submission made by the respondents outright for the reason that in the counter itself they have stated that the Government has funded Rs.2.35 crores to the society. While so, undoubtedly the said society is a limb of the state and therefore, the writ petition is maintainable. Even otherwise after admitting the writ petition, it cannot be dismissed on the ground of maintainability after three years. Question of maintainability has to be taken up at the stage of inception and not at the time of the final disposal.

6.The other reason stated by the respondents is untenable. If at all the writ petitioner as a Manager committed any misconduct, they should have initiated surcharge proceedings against him, which they have not done. Now, just to deprive his retirement benefits, the respondents have vaguely cited the conduct of the petitioner and attributing the said conduct for the loss of the Society. The said contention is also not supported by any material. Hence, the writ petition is bound to be allowed.



7. Accordingly, this writ petition is allowed. The fourth respondent is hereby directed to workout the retirement benefits whatever the petitioner is entitled and pay the same to him within a period of ten weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-II)

To:

1. The Registrar of Cooperative Societies,
Kilpauk, Chennai 600 010.
2. The Joint Registrar of Cooperative Societies,
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Theni.
3. The Deputy Registrar of Cooperative Societies,
Uthamapalayam, Theni District.
4. The President,
DD158 Bodinaickanur Uzhavar pani,
Cooperative Kadan Sangam Ltd.,
Bodi.

+ 1 CC TO Mr.K.APPADURAI, ADVOCATE IN SR No. 94648
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 94772

CP

TE/BK/SAR-2 : 07/12/2018 : 3P/7C

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