

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.11232 of 2007

Tamilnadu All District Central-  
Co-operative Banks Retired Employees Sangam,  
Regd.No.325 of 2003,  
10/24, 10<sup>th</sup> New Street,  
Polur Road,  
Thiruvannamalai - 606 601.

.. Petitioner

Vs.

- 1.The Government of Tamilnadu  
represented by its Secretary,  
Co-operation, Food & Consumer  
Protection Department,  
Fort St. George,  
Chennai - 600 009.
- 2.The Registrar of Co-operative Societies  
For the State of Tamilnadu,  
170, Periyar EVR High Road,  
Kilpauk, Chennai - 600 010.
- 3.The Tiruchirapalli District Central  
Co-operative Bank Limited,  
represented by its Special Officer,  
Thepakullam Post,  
Tirchy - 620 002.
- 4.The Regional Provident Fund Commissioner,  
Royapettah High Road,  
Chennai - 600 014.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, directing the respondents to implement the recommendations of the Murugaraj, IAS., Committee relating to grant of pension as a second benefit to the employees of the 3<sup>rd</sup> Respondent bank immediately by framing a Pension Scheme on the lines prevalent in Nationalised Banks.

For Petitioner : Mr.S.Udayakumar  
For RR1 & 2 : Ms.T.Girija  
Government Advocate  
For R3 : Mr.R.Parthiban  
For R4 : Mr.M.Jayaraman

O R D E R

The present Writ Petition is filed for a direction to the respondents to implement the recommendations of the Murugaraj, IAS., Committee relating to grant of pension as a second benefit to the employees of the 3<sup>rd</sup> respondent Bank immediately by framing a Pension Scheme on the lines prevalent in Nationalised Banks.

2(i).The petitioner's Sangam is representing at present 13 Districts Central Co-operative Banks Retired Employees Society and the Society (Federation) is formed to meet the grievances of the retired employees. Before the formation of the petitioner's Society (Federation) for similar relief, separate Writ Petitions were filed before this Court by Madurai, Virudhunagar, Cuddalore/Villupuram, Thiruvannamalai/Vellore, Erode and Coimbatore. At present, the petitioner's Sangam consists about 600 retired employees of 13 Districts Central Co-operative Banks. According to petitioner, they are demanding pension as a second retirement benefit based on the recommendation of the committee constituted in the year 1994 headed by Shri.Murugaraj, I.A.S., by framing a pension scheme on the lines prevalent in the Nationalised Banks. The respondents 3 to 78 Banks were formed Co-operative Sector. It is registered under the Co-operative Societies Act, 1904. Their service conditions are presently governed by a Settlements in respect of respondents 3 to 7 Banks under Section 12 (3) of the Industrial Disputes Act, 1947. As retirement benefits, they are getting only gratuity and provident fund (both employer and employee contributions) and they are not getting any pension. The employees of the Nationalised Banks, who were in service as on 01.01.1986 are getting pension pursuant to the Pension Regulations framed in the year 1995. The retired employees have formed association on 16.09.2003 and made a demand for payment of pension on the lines with the employees of the Nationalised Banks.

2(ii).In pursuance of their demand, the 1<sup>st</sup> respondent constituted a committee in the year 1994 headed by Shri.Murugaraj I.A.S., for streamlining the service conditions of the employees in the Central Co-operative Banks.

One of the issue was with regard to the payment of pension and the said committee has submitted its report dated 24.07.1995, recommending the payment of pension as a second retirement benefit in lieu of provident fund contribution by the employer. On that basis, the 1<sup>st</sup> respondent has issued G.O.Ms.No.161, Co-operation, Food and Consumer Protection Department, dated 05.09.1996 stating that the recommendations will be referred to the committee to be constituted to examine the scope of pension scheme with reference to the Government of India Ordinance.

2(iii). Subsequently, the 1<sup>st</sup> respondent has issued another Government Order in G.O.Ms.No.6, Co-operation, Food and Consumer Protection Department, dated 08.01.1997, referring to recommendation of Shri.Murugaraj I.A.S., Committee with certain conditions. In the said Government Order, the 1<sup>st</sup> respondent has stated that the recommendation of the Streamlining Committee is under active consideration of the 1<sup>st</sup> respondent and orders in this regard will be issued shortly. Even after passage of so many years, the 1<sup>st</sup> respondent has not passed any order framing scheme for payment of pension to the employees of petitioner's Sangam. The pension is being paid to the Tamil Nadu State Co-operative Bank as well as the employees of the Nationalised Banks.

2(iv). According to the petitioner, the Hon'ble Apex Court has held that the pension is not a matter of bounty and it being a part of the right under Article 21 of the Constitution of India. In view of the same, the learned counsel appearing for the petitioner prayed for a direction to the respondents to implement the recommendation of the committee relating to grant of pension as a second retirement benefit to the employees of the petitioner's Sangam by framing pension scheme.

3. The respondents 1 and 2 filed counter affidavit and stated that the third respondent is having registered by laws pertaining to its object and affairs and separate registered special by laws with regard to the service conditions of the staff of the bank. In Rule 149 of the Co-operative Societies Rules, 1988, there is no provision to create a scheme of pension to the retired employees of Co-operative Societies. While so, such a scheme cannot be framed for a single society like the third respondent. The third respondent Bank cannot be equated with Nationalized Banks as the concept, context, business structure, etc., are different. The first respondent have passed orders in their Government Order bearing G.O.Ms.No.161, Co-operation, Food and Consumer Protection Department, dated 05.09.1996 on the recommendations of the Committee. However, the Government have not accepted the

recommendations of the committee on the Pension Scheme and have decided to examine the scope of Pension Scheme with reference to Government of India ordinance. Hence the petitioner cannot compel the respondents to accept the recommendation of the committee and to pay the pension. The Tamil Nadu State Apex Co-operative Bank is a separate Bank and the pension schemes implemented in the said Bank had no relevance with the members of the petitioner sangam and prayed for dismissal of the Writ Petition.

4.The fourth respondent filed separate counter affidavit and contended that the present Writ Petition has been filed for a direction to the Government of Tamilnadu to implement the recommendations of Murugaraj, I.A.S., Committee relating to the grant of pension as the second benefit to the employees of the Thiruchirapalli District Central Co-operative Bank Limited, Tiruchy, the third respondent herein. Since, the prayer of the petitioner Sangam is to implement the Pension Scheme to that of the Nationalized Banks, this respondent has nothing to do with the prayer in the Writ Petition and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsels appearing for respondents 3 and 4 and the learned Government Advocate appearing for the respondents 1 and 2 and the perused the entire materials on record.

6.From the materials available on record, it is seen that the demand for payment for pension for the retired employees of the 3<sup>rd</sup> respondent Bank was considered by the 1<sup>st</sup> respondent by appointing one man committee headed by Mr.Murugaraj I.A.S. The one man committee has recommended payment of pension to the employees of the Central Co-operative Bank. The Government by G.O.Ms.No.161, Co-operation, Food and Consumer Protection Department, dated 05.09.1996, ordered that a committee would be constituted to refer the recommendations to examine the scope of pension scheme with reference to the Government of India Ordinance. Subsequently, the Government has passed another G.O.Ms.No.6, Co-operation, Food and Consumer Protection Department, dated 08.01.1997 and stated that the recommendation of the streamlining committee is under active consideration of the Government and orders in this regard will be issued shortly.

7.The grievance of the petitioners is that the 1<sup>st</sup> respondent has not passed any order with regard to payment of pension as recommended by the committee. In a Writ Petition praying for issuance of a Writ of Mandamus, this Court cannot

issue a positive direction to the respondents with regard to payment of pension to the petitioners on par with the employees of the Nationalised Banks. At the same time, it is to be noted that the 1<sup>st</sup> respondent in G.O.Ms.No.6, Co-operation, Food and Consumer Protection Department, dated 08.01.1997, stated that the recommendation of the streamlining committee is under active consideration of the Government and orders in this regard will be issued shortly. In view of such stand taken by the 1<sup>st</sup> respondent in G.O.Ms.No.6, Co-operation, Food and Consumer Protection Department, dated 08.01.1997, it is suffice to direct the 1<sup>st</sup> respondent to pass orders as stated in G.O.Ms.No.6. Accordingly, the 1<sup>st</sup> respondent is directed to pass orders on the recommendation of the streamlining committee with regard to payment of pension as second retirement benefit in lieu of provident fund contribution by the employer to the employees of the 3<sup>rd</sup> respondent Bank within a period of three months from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,  
The Government of Tamilnadu  
Co-operation, Food & Consumer  
Protection Department,  
Fort St. George,  
Chennai - 600 009.
2. The Registrar of Co-operative Societies  
For the State of Tamilnadu,  
170, Periyar EVR High Road,  
Kilpauk, Chennai - 600 010.
3. The Special Officer,  
The Tiruchirapalli District Central  
Co-operative Bank Limited,  
Thepakullam Post,  
Tiruchy - 620 002.

4.The Regional Provident Fund Commissioner,  
Royapettah High Road,  
Chennai - 600 014.

+1cc to Mr.S.Udayakumar, Advocate SR.65821  
+1cc to Mr.R.Parthiban, Advocate SR.65803

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BR(CO)  
CB(15/11/2019)



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