IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.11585 of 2008

Tamilnadu All District Central
-Co-operative Banks
Retired Employees Sangam,
10/24, 10th New Street,
Polur Road,
Thiruvannamalai 606 601. .. Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. by its Secretary
Co-operation, Food and Consumer
Protection Department
Fort St. George
Chennai-600 009.

2.The Registrar of Co-operative
Societies for the State of Tamil Nadu
170, Periyar EVR high road
Kilpauk, Chennai-600 010.

3.The Special Officer,
Salem District Central
Co-operative Bank Ltd.,
No.151, Cherry Road,
Salem 636 021.

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 to direct the respondents 1 to 4 to implement the recommendations of Murugaraj, IAS, Committee relating to the grant of pension as a second benefit to the employees of the 3rd respondent Bank immediately by framing a pension scheme on the lines prevalent in Nationalised Banks,award Cost.

For Petitioner : Mr.S.Udayakumar

For R1 & R2 : Mr.L.P.Shanmugasundaram,
Special Government Pleader
(Co-op.)

For R3 : Mr.M.R.Raghavan

For R4 : Mr.M.Jayaraman

O R D E R

Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to implement the recommendation of Mr.Murugaraj, IAS, committee relating to the grant of pension as a second benefit to the employees of the 3rd respondent Bank immediately by framing a pension scheme on the lines prevalent in Nationalised Banks.

2(i).The petitioner is association consisting of 112 retired employees of 3rd respondent Bank. According to the 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 service conditions of the employees of 3rd respondent Bank are governed by the settlements in respect of the 3rd respondent Bank under Section 12 (3) of the Industrial Disputes Act. 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 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 1st 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 recommended for payment of pension as a second retirement benefit in lieu of provident fund contribution by the employer. On that basis, the 1st 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 1st 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 1st respondent has stated that the recommendation of the streamlining committee is under active consideration of the 1st respondent and orders in this regard will be issued separately. Even after passage of so many years, the 1st respondent has not passed any order framing scheme for payment of pension to the employees of respondent Banks 3 to 7. 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 is 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 3rd respondent Bank to implement the recommendation of the committee relating to grant of pension as a second retirement benefit to the employees of the 3rd respondent Bank by framing pension scheme.

3(i). The 2nd respondent filed counter affidavit stating that the Employee Provident Fund and Miscellaneous Provisions Act, 1952 is a central enactment and in the Act itself had framed a scheme for pension. The 3rd respondent is not in a position to spare finance towards such a scheme. The 3rd respondent bank cannot be compared with nationalized banks. Since the Government have decided to examine the scope of the pension scheme with reference to Government of India ordinance, the petitioner cannot compel the respondents to accept the recommendation of the Committee and to pay the pension. There is no violation of Article 21 of the Constitution of India as the Employees Pension Scheme ordered by the Government of India is implemented in all the District Central Cooperative Banks and prayed for dismissal of the Writ Petition.

3(ii). The 3rd respondent filed counter affidavit and submitted that the pension is not a benefit conferred under the Act, Rules, By-law or the circulars. The Co-operative Societies are not bound by the Pension Act or Rules. Pension is not provided under any of the settlements entered into between the Bank and the employees under the provisions of the Industrial Disputes Act. In the absence of right to pension under any statute or regulations or Rules, it is not open to the retired employees to seek the relief of pension as against the bank. It is for the Government to consider the recommendations of Murugaraj I.A.S Committee. The Government on consideration of various relevant factors may or may not implement the recommendations. If the Government chooses to implement the recommendations either in the original form or with necessary modifications, necessary notifications, circulars under Sections 181 and 182 of the Co-operative Societies Act will have to be issued. Only after the compliance of the above mentioned procedure, the directions of circulars would be binding on the 3rd respondent bank and prayed for dismissal of the Writ Petition.

4.Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2, the learned counsel appearing for the respondents 3 and 4 and perused the materials available on record.

5.From the materials available on record, it is seen that the demand for payment of pension for the retired employees of the 3rd respondent Bank was considered by the 1st respondent by appointing one man committee headed by Shri.Murugaraj I.A.S. The one man committee has recommended payment of pension to the employees of the Central Co-operative Banks. 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 separately.

6.The grievance of the petitioner is that the 1st 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 members of the petitioner on par with the employees of the Nationalised Banks. At the same time, it is to be noted that the 1st 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 separately. In view of such stand taken by the 1st respondent in G.O.Ms.No.6, Co-operation, Food and Consumer Protection Department, dated 08.01.1997, it is suffice to direct the 1st respondent to pass orders as stated in G.O.Ms.No.6. Accordingly, the 1st 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 petitioner's Association within a period of three months from the date of receipt of a copy of this order.

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

gsa

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu
Co-operation, Food and Consumer
Protection Department
Fort St. George
Chennai-600 009.

2.The Registrar of Co-operative
Societies for the State of Tamil Nadu
170, Periyar EVR high road
Kilpauk, Chennai-600 010.

3.The Special Officer,
Salem District Central
Co-operative Bank Ltd.,
No.151, Cherry Road,
Salem 636 021.

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

+1cc to Mr.S.Udayakumar, Advocate, SR.No.66440
+1cc to the Special Govt.Pleader,(Co-op) Vide Sr.No.67030

W.P.No.11585 of 2008

Kak(24/10/2019)