IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.14413 of 2003
and
W.P.M.P.No.18028 of 2003

1.Cuddalore and Villupuram District
Central Co-Op bank Retired Employees
Association, (Regd. No.128/96),
7, Elango Adigal Street,
S.G.Puram, Villupuram - 605 602.

2.R.Santhanam .. Petitioners

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.Cuddalore District Central
Co-operative Bank Ltd.,
Rep. by its Special Officer
Cuddalore - 607 001.

4.Villupuram District Central
Co-operative Bank Ltd.,
Rep. by its Special Officer,
35, Trichy Trunk Road,
Villupuram - 605 602. .. 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 T.Murugaraj, IAS., committee relating to the grant of pension as a second benefit to the employees of the 3rd and 4th respondent Banks immediately by framing Pension Scheme on the lines prevalent in Nationalised Banks and to pay the arrears of pension within a time frame with interest award and costs.

(prayer amended as per order of this Court dated 03.09.2007 made in W.P.M.P.No.7716 of 2006 in W.P.No.14413 of 2003)

For Petitioners:		Mr.Govardhanan for M/s.Row & Reddy
For RR1 & 2	:	Ms.T.Girija Government Advocate
For RR3 & 4	:	Mr.R.Arumughan for M/s.Aiyar & Dolia

O R D E R

The present Writ Petition is filed for a direction to the respondents 1 to 4 to implement the recommendations of T.Murugaraj, IAS., committee relating to the grant of pension as a second benefit to the employees of the 3rd and 4th respondent Banks immediately by framing Pension Scheme on the lines prevalent in Nationalised Banks and to pay the arrears of pension within a time frame with interest.

2(i).The first petitioner is association consisting of 162 retired employees of 3rd and 4th respondent banks. According to first 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.T.Murugaraj, I.A.S., by framing a pension scheme on the lines prevalent in the Nationalised Banks. During the year 1996, the South Arcot District Central Co-op Bank Ltd., which was established in the year 1918, was bifurcated into two, namely, Cuddalore District Central Co-operative Bank Ltd., the third respondent herein and Villupuram District Central Co-operative Bank Ltd., the fourth respondent herein. The service conditions of the employees of 3rd and 4th respondent Banks are governed by a settlement dated 15.04.1997. 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.T.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 bearing G.O.Ms.No.6, Co-operation, Food and Consumer Protection Department, dated 08.01.1997, referring to recommendation of Shri.T.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 shortly. 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 3rd and 4th respondent Banks. 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 petitioners prayed for a direction to the 3rd and 4th respondent Banks to implement the recommendation of the committee relating to grant of pension as a second retirement benefit to the employees of the 3rd and 4th respondent Banks by framing pension scheme.

3.The third respondent filed counter affidavit and stated that the payment of pension to the employees in all the district central Cooperative Bank has to be decided by the State Government by taking a policy decision. Therefore the petitioner cannot compel the respondents to pay pension to them by filing Writ Petitions. The streamlining Committee was constituted to streamline the pay scales and service conditions of the employees of all the District Central Cooperative Banks in Tamil Nadu and the said Committee submitted its recommendations to the Government. The Government accepted certain recommendations and the same was communicated to the second respondent. The first respondent has not taken any policy decision with regard to payment of pension and in the absence of policy decision, the respondents cannot be compelled to pay the pension. The members of the first petitioner sangam cannot compare them to

Nationalized Bank that they are getting pension as the volume of work, business, the area of operation, nature of business, etc., are totally different. As per the provisions of T.N.Cooperative Society Act and Special Byelaws No.28, the Bank has to distribute the net profit every year. Hence it is incorrect to state that the third respondent has capacity to pay pension to the members of the first respondent sangam is without merits and prayed for dismissal of the Writ Petition.

4.The fourth respondent filed counter affidavit and reiterated the averments made in the counter affidavit filed by the third respondent and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4 and 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 3rd and 4th respondent Banks was considered by the 1st respondent by appointing one man committee headed by Shri.T.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 separately.

7.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 shortly. 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.

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

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To
1.The Secretary to 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.

+1cc to Mr.R.Arumugam, Advocate, SR.No.66241
+1cc to Special Govt.Pleader,(Co-op) Vide Sr.No.66305

W.P.No.14413 of 2003

Kak(11/11/2019)