

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.31925 of 2003

Tamilnadu All District Central
-Co-operative Banks

Retired Employees Society (Federation),
10/24, 10th New Street,
Polur Road,
Thiruvannamalai 606 601.

Rep. By its General Secretary.

.. 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 Nilgiris District Central
Co-operative Bank Ltd.,
Rep. by its Special Officer
Nilgiris.
- 4.The Kanyakumari District Central
Co-operative Bank Ltd.,
Rep. by its Special Officer
Kanyakumari.
- 5.The Dharmapuri District Central
Co-operative Bank Ltd.,
Rep. By its Special Officer,
Dharmapuri.
- 6.The Dindugal District Central
Co-operative Bank Ltd.,
Rep. By its Special Officer,
Dindugal.

7.The Pudukottai District Central
Co-operative Bank Ltd.,
Rep. By its Special Officer,
Pudukottai.

8.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 3 to 7 to implement the recommendations of Murugaraj, IAS, Committee relating to the grant of pension as a second benefit to the employees of the respondents 3 to 7 Banks immediately by framing a pension scheme on the lines prevalent in Nationalised Banks, award cost and pass such further or other orders.

For Petitioner : Mr.S.Udayakumar
For R1 & R2 : Mr.L.P.Shanmugasundaram,
Special Government Pleader
For R4 : Mr.R.Prem Narayan
For R5 : Mr.K.M.Sri Rangan
For R6 : Ms.Beula Rajakumari
For R7 : Mr.R.Parthiban
For R8 : Mr.K.Gunasekhar

O R D E R

सत्यमेव जयते

Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondents 3 to 7 to implement the recommendation of Mr.Murugaraj, IAS, committee relating to the grant of pension as a second benefit to the employees of the 3 to 7 respondent Banks 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 respondent banks 3 to 7. 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 respondent Banks 3 to 7 are governed by the settlements in respect of the respondent Banks 3 to 7 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 respondent Banks 3 to 7 to implement the recommendation of the committee relating to grant of pension as a second retirement benefit to the employees of the respondent Banks 3 to 7 by framing pension scheme.

3(i). The 4th respondent filed counter affidavit stating that the Co-operative Banks or Societies cannot be compared with the Nationalized Banks and the very constitution between both are distinct and different. The Co-operative Society or Bank is an independent entity, registered under the provisions of the Tamil Nadu Co-operative Societies Act and each Central Bank is having its own constitution and by-laws. There is no right existing on the employees with regard to pension. 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 and prayed for dismissal of the Writ Petition.

3(ii). The 6th respondent filed counter affidavit and submitted that mere recommendation of the Committee does not confer any statutory right on the employees to insist Government to accept the recommendations. It is premature to assail the decision of the Government. 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. The employees of the 6th respondent Bank have entered into an agreement with the management under Section 12 (3) of the Industrial Disputes Act with effect from 01.07.1999 for a period of 5 years. The introduction of pension scheme was not taken up in the settlement and that there are no orders in this regard and hence, 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 4, 5, 6, 7 and 8 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 respondent Banks 3 to 7 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 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.

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.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

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

WEB COPY

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,
Nilgiris District Central
Co-operative Bank Ltd.,
Nilgiris.

4.The Special Officer,
Kanyakumari District Central
Co-operative Bank Ltd.,
Kanyakumari.

5.The Special Officer,
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Dharmapuri.

6.The Special Officer,
Dindugal District Central
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Dindugal.

7.The Special Officer,
Pudukottai District Central
Co-operative Bank Ltd.,
Pudukottai.

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

+1cc to Mr.R.Prem Narayan, Advocate SR.No.66799

+1cc to Mr.R.Parthiban, Advocate SR.No.66456

+1cc to Mr.S.Udayakumar, Advocate SR.No.66439

+1cc to Special Government Pleader SR.No.67081

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SPD(CO)
GMY(06/11/2019)