

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2019

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.26055 of 2011 and M.P.No.1 of 2011

S.Rathinasamy

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Petitioner

Vs

1.The Additional Registrar of Cooperative Societies
No.170, EVR Periyar Road, Kilpauk, Chennai-10.

2.The Joint Registrar of Cooperative Societies
Karungalpalayam, Erode.

3.The Deputy Registrar of Cooperative Societies
Erode Circle, Erode.

4.The Secretary / Special Officer, T.P.Spl.33
Ejamanar Pudur Primary Agricultural
Cooperative Credit Society Ltd., Nathakadaiyur.

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Respondents

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.L.P.Shanmugasundaram,
Special Govt.Pleader
for RR 1 to 4

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus Calling for Records relating to the order of the first respondent's proceedings made in Na.Ka.No.32003/2010 Sa.Pa.1 dated 26.05.2011 to quash the same and consequently direct the respondents to settle all the retained retirement benefits of Rs.1,99,135/- with interest at 12% per annum.

O R D E R

The case of the petitioner is that he was working as Secretary, Ejamanar Pudur Primary Agricultural Cooperative Credit Society Ltd., and he retired from service on 31.08.2018, on attaining the age of superannuation. According to him, on his retirement, he was entitled to be paid Rs.10,46,798/- with

accrued interest totalling to Rs.11,06,159/-. However, he was settled only an amount of Rs.9,07,024/- and an amount of Rs.1,99,135/- has been withheld.

2. According to the petitioner, he has entered into the settlement with the management under Section 18(1) of the Industrial Disputes Act, pursuant to the Government Letter dated 04.04.2005. In pursuance of the settlement, his pay came to be fixed at Rs.3745-10125. The settlement dated 28.11.2008 had come into force immediately. While the matters stood thus, on his retirement, when the amounts were settled, the respondents had applied the circular of the Registrar dated 26.05.2005 and G.O.Ms.No.131 dated 04.06.1999 and refused to give the benefit, which contemplated under the settlement entered into between the petitioner and the management under Section 18(1) of the Industrial Disputes Act. When a representation was made, it was rejected by the authorities concerned stating that the Government Order would prevail over the Section 18(1) settlement and the rejection order is put to challenge in this writ petition.

3. When the matter is taken up for hearing, learned Special Government Pleader appearing on behalf of the respondents submitted that the issue whether the Section 18(1) settlement will prevail or the Government Order will prevail, has been settled by this Court in a number of decisions and one such decision was brought to the knowledge of this Court. The decision of the learned Judge of this Court, which was reported in 2003 (1) CTC 586 (P.Paulpandian -Vs-The Registrar of Co-operative Societies), was relied on by the respondents. The learned Judge of this Court, in fact, followed by an order passed by the Division Bench of this Court, had held that the claims of the employees based on the settlement entered under Section 18(1) is not tenable and the cancellation of such settlement is justified in view of the absence of bye-laws regulating the terms and conditions of service, fixation of scale of pay etc.,. The Court has held that such settlement arrived at between the management and the employees of the Cooperative Societies, without the approval of the Registrar is illegal.

4. In the above circumstances, the learned counsel appearing for the respondents submitted that the issue is no more res integra and hence the petitioner is not entitled to succeed in the writ petition and any claim based on Section 18(1) settlement by the employees of the cooperative societies cannot be countenanced both in law and on facts, as the settlement has been entered into between the management of the cooperative

society and its employees without the approval of the Registrar of the Government.

5. This Court is in agreement with the submission made on behalf of the respondents that such settlement as entered into between the petitioner and the management does not have any legal sanction and the same is without any authority of law. Therefore, the petitioner cannot successfully rest his claim on the basis of the terms of Section 18(1) settlement. In any event, this Court has set rest the controversy as controversy as to which will prevail viz., whether the Section 18(1) settlement or the Government Order will prevail. Therefore, this Court finds that the Government Order on the basis of which the benefits of settlement have been paid, cannot be assailed and the same does not suffer from any infirmity. Hence, the petitioner's claim that the retirement benefits have to be settled on the basis of Section 18(1) settlement is unsustainable both in law and on facts.

6. For the above said reasons, this Court finds no merits in the writ petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KST

To

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Ejamanar Pudur Primary Agricultural
Cooperative Credit Society Ltd., Nathakadaiyur.

+1cc to Mr.L.Chandrakumar, Advocate sr.no.30557
+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.no.30178
+1cc to Government Pleader sr.no.31036

W.P.No.26055 of 2011
& M.P.No.1 of 2011

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