

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15383 of 2019

N.R. Subramanian

...Petitioner

vs

1.The Joint Registrar of Co-operative Societies,
Perambalur Region,
O/o. Collectorate Campus,
Perambalur,
Perambalur District.

2.The Managing Director,
Perambalur District Consumer
Co-operative Wholesale Stores,
(I Floor of Perambalur Primary
Agricultural Co-operative Credit Society),
Near Sangupettai,
Madhanagopalapuram,
Perambalur - 621 212,
Perambalur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to disburse the petitioner's retirement benefits like, Gratuity, Encashment of Earned Leave and Encashment of unearned leave on Private Affairs and Medical Benefits to the petitioner.

For Petitioner : Mr.C. Prakasam

For Respondents : Mr.D. Venkatachalam
Special Government Pleader for R1

Mr.R. Bala Ramesh for R2

O R D E R

This petition has been filed to direct the respondents to disburse the petitioner's retirement benefits like, Gratuity, Encashment of Earned Leave and Encashment of unearned leave on Private Affairs and Medical Benefits to the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The case of the petitioner is that the petitioner was appointed as Salesman in Amaravathi Co-operative Super Market, Trichy, on 28.08.1982. When the bifurcation of Trichy District was effected, he was transferred to Perambalur District and the name of the Super Market was changed as Perambalur District Consumer Co-operative Wholesale Stores. It is the further case of the petitioner that he joined duty as Salesman in the year 2000 and subsequently, he was promoted as Assistant. Thereafter, he attained the age of superannuation on 31.10.2011. But, on the date of superannuation, the petitioner was not allowed to retire from service since no disciplinary proceedings were pending against him. The 2nd respondent did not disburse any retiral benefits to the petitioner. Hence, he made a representation to the respondents to disburse the said terminal benefits till date no order has been passed.

4. Learned counsel for the petitioner submitted that the issue involved in the present case is squarely covered by the judgment of the Division Bench of this Court dated 18.01.2016 made in W.A.No.1700 of 2015 (The Joint Registrar of Co-operative Societies and another vs. R.Chithravelu).

5. The learned counsel for the respondents has not disputed the facts submitted by the learned counsel for the petitioner.

6. The issue involved in the present case is whether the employee is entitled to the amounts so collected from his salary during his service and credited to his General Provident Fund account, Special Provident Fund account and his Earned Leave and Leave Earned on private affairs amounts, pending enquiry. On perusal of the abovesaid Judgment of the Full Bench of this Court, it reveals that the said decision squarely covers this issue and the relevant paragraphs are extracted hereunder:

"4. The Writ Court after considering the respective submissions and placing reliance on a Full Bench judgment of the Punjab and Haryana High

Court, directed the Official Respondents to disburse him the said amounts as under:

"According to the petitioner, he is entitled to receive these items even if he is ultimately dismissed from service. I am in agreement with the submission of the learned counsel for the petitioner. It is useful to refer to a Full Bench judgment of the Punjab and Haryana High Court dated 9.11.2012 in Letters Patent Appeal No.113 of 2012 in Punjab State Civil Supplies Corporation Ltd., and others vs. Pyare Lal. The relevant portions are extracted hereunder:

"10.

Before we go into the legal sanctity of the Circular, it must be remembered that the Leave Encashment is paid on account of unutilised leave and therefore, it partakes the character of salary.

12. We are, therefore, in agreement with the view taken by the Division Bench of this Court in B.S.Gupta vs. Uttar Haryana Bijli Vitran Nigam Limited and others (2006 (8) SLR 690) holding that amount of leave encashment is payable to the retiring employee notwithstanding the pendency of the departmental enquiry or criminal proceedings. "

I am of the view that the same principle would apply in the case of payment of General Provident Fund and contribution of the Government employee to Special Provident Fund also.

Hence, a direction is issued to the first respondent to settle the General Provident Fund, contribution of the petitioner to Special Provident Fund and Earned Leave Encashment, within a period of six weeks from the date of receipt of a copy of this order.

.. . .

9. In this respect the Writ Court has rightly placed its reliance on the Full Bench judgment of the Punjab and Haryana High Court in Punjab State Civil Supplies Corporation Ltd., and others vs. Pyare Lal (LPA No.113 of 2012 dated 09.11.2012)."

7. In the light of the above said Judgment, I am inclined to allow this Writ Petition. Accordingly, this Writ Petition is allowed. The respondents are directed to pay the Gratuity, Encashment of Earned Leave and Encashment of unearned leave on

Private Affairs and Medical Benefits to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

mps/kj

To

1.The Joint Registrar of Co-operative Societies,
Perambalur Region,
O/o.Collectorate Campus,
Perambalur,
Perambalur District.

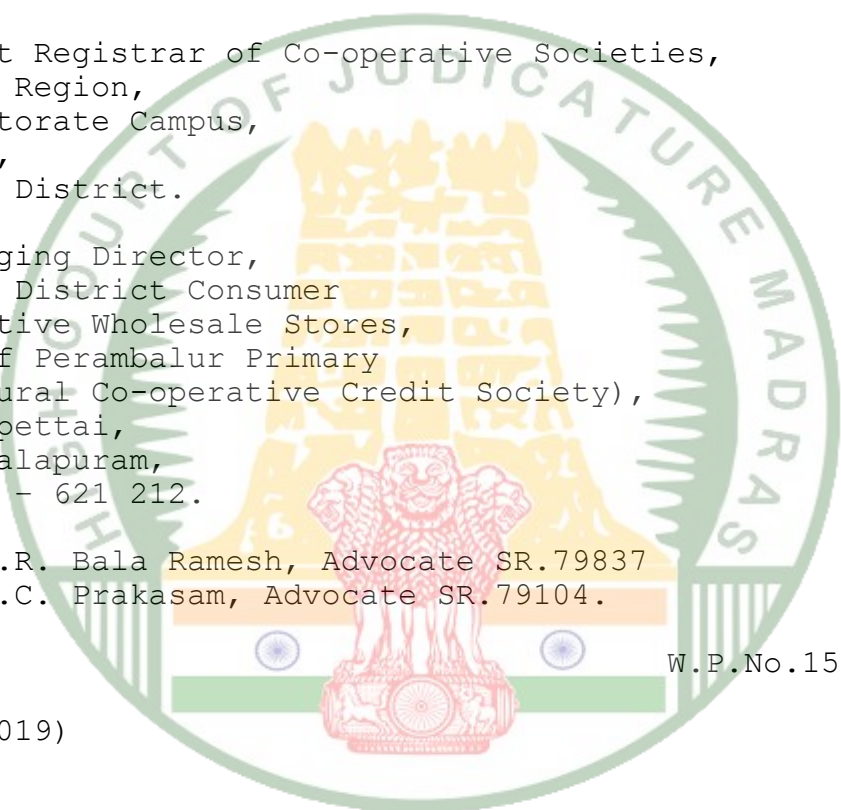
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Near Sangupettai,
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Perambalur - 621 212.

+1cc to Mr.R. Bala Ramesh, Advocate SR.79837

+1cc to Mr.C. Prakasam, Advocate SR.79104.

W.P.No.15383 of 2019

CA(CO)
CB(26/11/2019)



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