



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.20114 of 2019

A.Sudandranathan

..Petitioner

vs

1. The Deputy Registrar of Co-operative Societies,
Gobichettipalayam
Erode District
2. The Management,
K0544, Gobichettipalayam Agricultural Procedures, Co operative Marketing,
Society Ltd., Gobichettipalayam,
Erode District.

.. Respondents

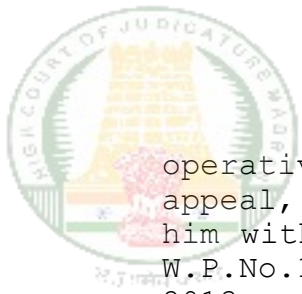
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue an appropriate order or direction or Writ of Mandamus to direct the respondents to disburse with the gratuity and leave salary amount to the petitioner with 9% interest.

For Petitioner : Mr.M.Liagat Ali
For Respondents: Mr. L. P. Shanmugasundaram,
Spl.GP (co-op.)

O R D E R

The petitioner has preferred this Writ Petition seeking to direct the respondents to disburse with the gratuity and leave salary amount to the petitioner with 9 percent interest.

2. The case of the petitioner is that the petitioner was working as Secretary incharge of the respondent society. On 19.04.2012, the surcharge proceedings was initiated against the petitioner and four others. Enquiry Officer fixed liability on two charges but relieved from the other two charges and an appeal in C.M.A. No.50 of 2013 was filed before the Co-



operative Tribunal, Erode. The District judge allowed his appeal, setting aside the entire surcharge proceedings against him with cost to the respondent. The second respondent has filed W.P.No.1469 of 2016 against the award passed in C.M.A.No.50 of 2013 and the same was admitted, but no interim order has been passed. Though the petitioner was allowed to retire from his service on 19.12.2017, his retirement benefits, gratuity and leave salary have not been paid till date. Hence the present Writ Petition.

3. The learned counsel for the petitioner submitted that the petitioner made representations on 20.02.2018 and 30.03.2019, to disburse the payment of gratuity. However, the respondent denied payment on the pretext of pending W.P.No.1469 of 2016. It is his further submission that gratuity cannot be withheld under Section 79(2) (c) of the Co-operative Societies Act, and prays for disbursal of the same.

4. Mr.L.P.Shanmugasundaram, learned Special Government Pleader (co-operative) appearing for the respondents conceded with the limited request made by the learned counsel for the petitioner.

5. Considering the above facts and circumstances, especially, the fact that as on the date of retirement, there is no charge pending against the petitioner, this Court is of the view that there is no illegal impediment to disburse the retirement benefits in terms of the judgment in the case reported in (2008) 6 MLJ 633 Paramasivam versus Assistant Director of Co-operative Audit, Salem and another, wherein it has been observed as follows:

In my considered opinion, it is too late for the first respondent to raise such objection. Admittedly, the petitioner was appointed as Secretary in the year 1981. After 26 years of his successful service, it is not at all proper to come forward with the opinion for the first time that his appointment made 26 years before is irregular, in the absence of any order to that effect passed by any authority, thereby giving any opportunity to the petitioner to substantiate his contention that his appointment was regular, it is not at all proper to withhold the payment of gratuity amount. Therefore, it am of the firm opinion that the petitioner is entitled for gratuity amount without any delay and the said



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amount cannot be allowed to be withheld by the respondents for any delay and the said amount cannot be allowed to be withheld by the respondents for any purpose, as provided in Section 79 of the Co-operative Societies Act. Thus, all the objections raised by the first respondent in the counter are only to be rejected.

6. Accordingly, the second respondent is directed to disburse the gratuity amount due to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of accordingly. No Costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsn

To:

1. The Deputy Registrar of Co-operative
Societies,
Gobichettipalayam
Erode District

+lcc to Mr.M.Liagat Ali, Advocate sr.92727
+lcc to Mr.L.P.Shanmugasundaram, Advocate 92942
+lcc to Special Government Pleader(Co.Op) sr.93316

W.P.No.20114 of 2019

mr(co)
nr 20/12/2019