

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.29501 of 2014

R.Murugesan

... Petitioner

Vs.

The Chengam Agri Producers Co-op
Marketing Society Ltd.,
Chengam,
T.V.Malai District,
Rep. by its Co-op Sub Registrar/
Managing Director,
Tiruvannamalai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue WRIT OF MANDAMUS, directing the respondent to pay interest at the rate of 8½% from 01.02.2004 to 03.09.2014 o the Provident Fund amount of Rs.98,778/- that was standing to the credit of petitioner's Provident Fund Account as on 31.01.2004, the date of his superannuation.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.L.P.Shanmugasundaram
Special Government Pleader

सत्यमेव जयते
O R D E R

The petitioner has filed the Writ Petition praying to issue a Writ of Mandamus, directing the respondent to pay interest at the rate of 8½% from 01.02.2004 to 03.09.2014 o the Provident Fund amount of Rs.98,778/- that was standing to the credit of petitioner's Provident Fund Account as on 31.01.2004, the date of his superannuation.

2.The learned counsel appearing for the petitioner submitted that the petitioner was working as a Secretary in the respondent Society and he was suspended on 30.01.2004. The petitioner was suspended by permitting him to retire from service and

contemplating enquiry into grave charge. The charge memo came to be issued on 15.05.2004, since there was no power in the bye laws enabling the respondent to proceed against an employee after he reached the age of superannuation and he questioned the disciplinary proceedings under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 before the Joint Registrar of Co-operative Societies, Tiruvannamalai. However, the revision petition came to be dismissed and against which he filed W.P.No.29439 of 2008. This Court by an order dated 05.06.2012 dismissed the above said writ petition and hence, he filed an appeal before this Court in W.A.No.1856 of 2012 challenging the aforesaid charge memo. The Division Bench of this Court by an order dated 23.04.2014 has quashed the charge memo and allowed the appeal. Thereafter, the respondent has paid the Provident Fund to the petitioner on 03.09.2014.

3.The petitioner has made a request to pay an interest at the rate of 8½% from 01.02.2004 to 03.09.2014 on the Provident Fund amount of Rs.98,778/- (Rupees ninety eight thousand seven hundred and seventy eight only) that was standing to the credit of petitioner's Provident Fund account as on 31.01.2004 i.e. the date of his superannuation.

4.The learned Special Government Pleader appearing for the respondent would submit that the writ petition is not maintainable on the ground that the petitioner has not made any representation to the respondent society and he filed this writ petition seeking for the aforesaid relief. Therefore, the same is liable to be rejected on the ground of maintainability.

5.The learned counsel for the petitioner would submit that in the light of the Judgment of this Court and as per Section 10 of the Employees' Provident Fund Act, 1952, the petitioner is entitled for the interest for the delayed payment of Provident Fund, even though, he has not made any representation for the aforesaid interest for the delayed payment of the Provident Fund.

6.Therefore, this Court is not inclined to entertain the writ petition without approaching the authority concerned. However, this Court grants liberty to the petitioner to approach the Joint Registrar of Co-operative Societies by way of a representation to seek his remedy. If any such representation is received from the petitioner, the Joint Registrar of Co-operative Societies is directed to take note of the said Provisions of the Act and also the Judgments of this Court, for granting interest for the delayed payment of the Provident Fund and pass orders on merits and in accordance with law.

7.With the above direction, this Writ Petition stands disposed of. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

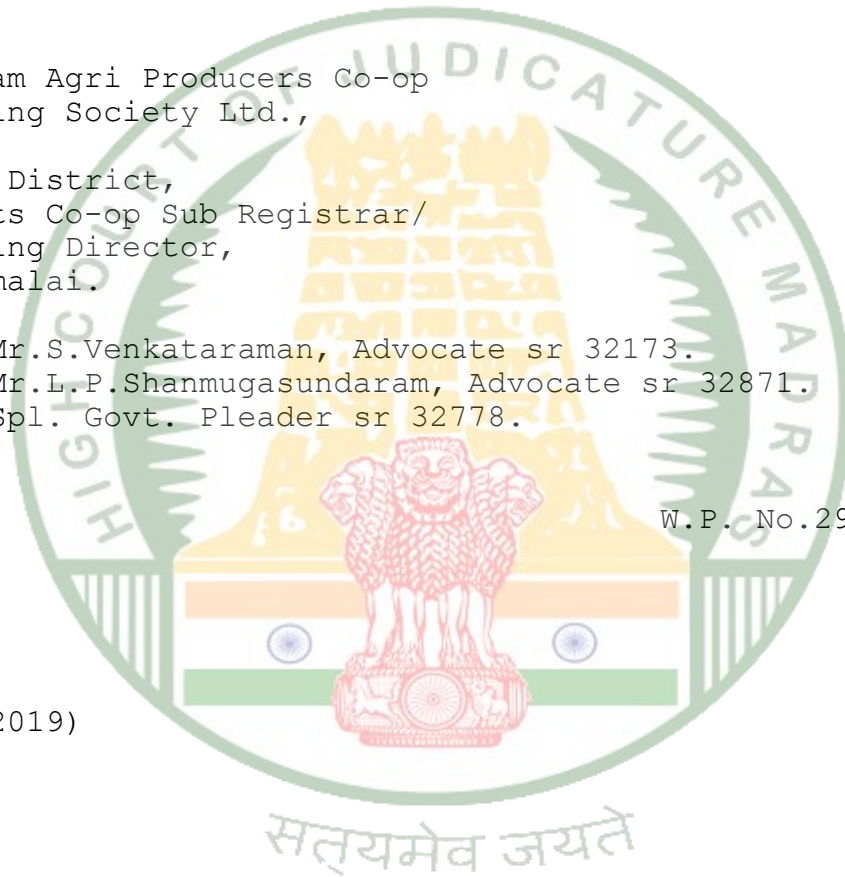
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To

The Chengam Agri Producers Co-op
Marketing Society Ltd.,
Chengam,
T.V.Malai District,
Rep. by its Co-op Sub Registrar/
Managing Director,
Tiruvannamalai.

+1 CC to Mr.S.Venkataraman, Advocate sr 32173.
+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 32871.
+1 CC to Spl. Govt. Pleader sr 32778.

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RR(CO)
SP(14/05/2019)



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