

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

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THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.29868 of 2014
and M.P.No.1 of 2014

R.Arunachalam

.. Petitioner

Vs.

1.The Joint Registrar of
Co-operative Societies,
Tiruvarur Region,
Tiruvarur District.

2.The Deputy Registrar of
Co-operative Societies,
Tiruvarur Region,
Tiruvarur District.

3.The President/Special Officer,
10798, Thillaivilagam Primary Agricultural
Co-Operative Credit Society Limited,
Thillaivilagam & Post,
Thiruthuraipoondi Taluk,
Tiruvarur District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue WRIT OF MANDAMUS, directing the respondents to pay salary from 01.10.2005 to 31.03.2008 including increments and revised salary, salary as per G.O.189, dated 17.11.2009 for the period from 01.04.2008 to 29.09.2009, salary for the period from 23.04.2011 to 31.08.2012 in the revised scale of pay, Employees Provident Fund. Gratuity and Encashment of Earned Leave etc., to the petitioner with interest at the rate of 24% per annum from the due date till the date of realization.

For petitioner : Mr.R.Raja

For R1 & R2 : Ms.T.Girija,
Government Advocate

For R3 : Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

The petitioner has filed the Writ Petition praying to issue a WRIT OF MANDAMUS, directing the respondents to pay salary from 01.10.2005 to 31.03.2008 including increments and revised salary, salary as per G.O.189, dated 17.11.2009 for the period from 01.04.2008 to 29.09.2009, salary for the period from 23.04.2011 to 31.08.2012 in the revised scale of pay, Employees Provident Fund. Gratuity and Encashment of Earned Leave etc., to the petitioner with interest at the rate of 24% per annum from the due date till the date of realization.

2.The petitioner cannot seek his remedy before the respondent Management which cannot be revised as per the above said G.O.No.189 dated 17.11.2009 and there is no execution of agreement entered between the petitioner and the respondent under Section 12(3) of the Industrial Dispute Act or under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 or under Section 153 of the Tamil Nadu Co-operative Society Act. Further, in the light of the counter filed by the first and second respondent stating that the petitioner's representation shall be forwarded to the third respondent Society for considering the said representation to settle the retirement benefits. Therefore, the third respondent/Society has to take a decision for the petitioner's representation.

3.In the light of the law settled by this Court in the case of K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689, the petitioner is not entitled to file a writ petition. Further, when the petitioner has an alternative remedy under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983, without exhausting the same, filing a writ petition is not maintainable either on law or on facts.

4.Accordingly, this Writ Petition is not maintainable, therefore, this Court is not inclined to entertain the present writ petition and the same is not maintainable and the petitioner is directed to seek his remedy either under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 or under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983.

5.Therefore, the writ petition stands dismissed as not maintainable and it is left open to the petitioner to approach

the appropriate forum. However there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Joint Registrar of
Co-operative Societies,
Tiruvarur Region,
Tiruvarur District.
- 2.The Deputy Registrar of
Co-operative Societies,
Tiruvarur Region,
Tiruvarur District.
- 3.The President/Special Officer,
10798, Thillaivilagam Primary Agricultural
Co-Operative Credit Society Limited,
Thillaivilagam & Post,
Thiruthuraipoondi Taluk,
Tiruvarur District.

+1cc to Government Pleader sr.25099
+1cc to Mr.K.Raja, Advocate sr.24817
+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.24627

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W.P.No.29868 of 2014
and M.P.No.1 of 2014

rsi(co)
nr 01/07/2019