



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.06.2019
CORAM:
THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

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W.P. (MD) No.13602 of 2019
and
W.M.P. (MD) Nos.10148 to 10150 of 2019

Innasimuthu

... Petitioner

Vs.

1.The Registrar,
Department of Co-operatives,
Kilpauk,
Chennai.

2.The Joint Registrar,
Department of Co-operative,
Santhanathapuram 2nd Street,
Pudukkottai District.

3.The Deputy Registrar,
Department of Co-operative,
Aranthangi,
Pudukkottai District.

4.The Enquiry Officer-cum-Co-operative
Sub-Registrar,
Dakshinapuram Primary Agriculture
Co-operative Bank,
Alangudi Taluk,
Pudukkottai District.

5.The Special Officer,
Dakshinapuram Primary Agriculture Co-operative Bank,
Alangudi Taluk,
Pudukkottai District.

6.The Secretary,
Dakshinapuram Primary Agriculture Co-operative Bank,
Alangudi Taluk,
Pudukkottai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the third respondent in Na.Ka.No.837/2018 A2, dated 20.09.2018, and quash the same as illegal.



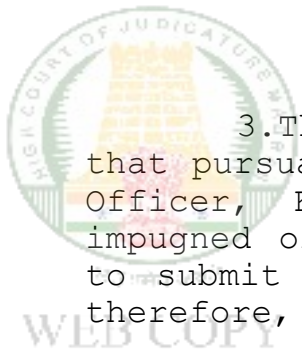
For Petitioner : Mrs.A.Banumathy
For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

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ORDER

This Writ Petition has been filed seeking to quash the impugned order of the third respondent in Na.Ka.No.837/2018 A2, dated 20.09.2018.

2. According to the petitioner, he retired from service on 31.07.2006 subject to the outcome of disciplinary proceedings under Sections 82 and 87 of the Tamil Nadu Co-operative Societies Act, 1983, pending before the fourth respondent. The fourth respondent vide letter dated 30.07.2004 ordered for Thandatheervai over 13 persons, including the petitioner for the loss caused to the Society to the extent of Rs.1,17,141/- due to the loan obtained by the President of Society and others and also sanctioning wrong scale of pay to one Chinnappan, Salesman. Due to that, the petitioner has been deprived of his pensionary benefits till date and has not received any money and no notice was issued for taking action against the said 13 persons. Therefore, the petitioner sent several representations to sanction his retirement benefits, monthly pension and salary from 01.04.2004 to 31.03.2005, but the same were not considered by the respondents. The fourth respondent had sent Section 87(2) notice for personal appearance of the petitioner to submit the explanation and the petitioner also submitted his explanation on 15.07.2004, but no action has been taken. Hence, the petitioner filed W.P.(MD)No.7994 of 2014 before this Court seeking to quash the departmental proceedings and to release his retirement benefits, monthly pension and salary for the period from 01.04.2004 to 31.03.2005. This Court, by order dated 19.12.2017, directed the respondents therein to appoint an enquiry officer and conduct the enquiry proceedings against all the persons, who are all alleged to have committed loss to the Society and also directed the respondents to release the said amount, which has been held as security for the loss caused to the Bank, if the petitioner is not found guilty. Accordingly, the Regional Field Officer, Karambakudi, was appointed as an enquiry officer and he submitted his report dated 02.08.2018 stating that the monetary loss caused by the petitioner and 13 others to the Society is to the tune of Rs.1,17,141/-, for which, the interest, at the rate of 18% comes to Rs.2,95,229/- as on 31.07.2018 and as per 2002-2003 Audit Report, the petitioner has caused loss to the Society to the tune of Rs.1,39,451/- and thus, the total comes to Rs.5,51,821/- and therefore, the third respondent has recommended to deduct the said amount from the retirement benefits of the petitioner. Challenging the said order, the present Writ Petition has been filed.



3. The learned counsel appearing for the petitioner submitted that pursuant to the enquiry report submitted by the Regional Field Officer, Karambakudi, the third respondent passed the present impugned order without providing any opportunity to the petitioner to submit his explanation for the above said recovery amount and therefore, the same is liable to be quashed.

4. The learned Additional Government Pleader appearing for the respondents submitted that separate order has been passed under Section 87(4) of the Tamil Nadu Co-operative Societies Act by the third respondent and the present impugned order relates to payment of pensionary benefits to the petitioner after deducting the loss caused by him. The learned Additional Government Pleader further submitted that after deducting recovery amount from the petitioner, the remaining pensionary benefits will be granted to the petitioner and therefore, there is no infirmity in the order passed by the third respondent and therefore, the learned Additional Government Pleader prayed for dismissal of the Writ Petition.

5. Heard both sides.

6. There is no whisper or reference in the impugned order that the third respondent has given an opportunity to the petitioner to put forth his explanation before the authority concerned, while passing the said order. The learned Additional Government Pleader, on instructions from the third respondent, who is present before this Court, submitted that no opportunity has been granted to the petitioner while passing the impugned order. Therefore, this Court, in the interest of justice, is inclined to pass the following orders:-

(i) The impugned order of the third respondent in Na.Ka.No.837/2018 A2, dated 20.09.2018, is quashed.

(ii) The third respondent is directed to issue notice to the petitioner along with all relevant materials including the enquiry report as submitted by the enquiry officer based on the order passed by this Court in W.P.(MD)No.7994 of 2014, dated 19.12.2017, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On receipt of the said notice, the petitioner shall submit his explanation within a period of two weeks thereafter.

(iv) On receipt of such explanation, the third respondent is directed to pass final orders, within a period of four weeks thereafter and communicate the same to the petitioner.



7. This Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

/ True Copy /

Sub Assistant Registrar (CS-)

To

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+1 CC to M/s.A.BANUMATHY, Advocate (SR-71870[F] dated 27/06/2019)
+1 CC to M/s.SPL GP (SR-72177[F] dated 28/06/2019)

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