

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.01.2020
CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.2129 of 2020

P.Vasantharajan

: Petitioner

vs.

1. The Registrar,
Co-operative Societies,
N.V.Natarajan Maligai,
No.170, EVR Periyar High Road,
Kilpaukkam, Chennai - 60 010.
2. The Joint Registrar,
Co-operative Societies,
Coimbatore Region,
Arokiasamy Street,
KK Pudur, Coimbatore - 641 038.
3. The Deputy Registrar,
Co-operative Societies,
Coimbatore Region.
Sinthamani Supermarket Complex,
North Coimbatore.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to disburse Gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned Leave on Private affairs to the representation dated 17.12.2018 and 18.12.2019, within such time as may be stipulated by this Court.

For Petitioner : Mr.B.Dinesh Kumar

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondents to disburse Gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned leave on private affairs.

2.The case of the petitioner is that he was working as Senior Inspector in the Co-operative Society. An FIR came to be registered against the petitioner in Crime No.3/2017/AC/CB and he was suspended from service by the proceedings of the 3rd respondent dated 06.05.2017. The petitioner was also not permitted to retire from service pending disciplinary proceedings. The petitioner was kept under suspension. According to the petitioner, the criminal case is pending and no charge memo is issued till date.

3.The petitioner has claimed for the Gratuity, General Provident Fund, Special Provident Fund, Encashment of Earned Leave and Encashment of Unearned leave on private affairs. The petitioner has made representations on 17.12.2018 and 18.12.2019 to the respondents seeking for these benefits. Since, these representations did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate directions.

4.Heard Mr.B.Dinesh Kumar, learned counsel appearing on behalf of the petitioner and Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents.

5.The issue that has been raised in the present writ petition is squarely covered by the judgment of this Court in the case of Secretary to Government, Revenue Department, Secretariat, Chennai and others vs. K.Palaniyandi reported in 2019 (5) CTC 19. In this judgment the Division Bench has considered all the earlier judgments on the issue and held that even, in a case where the Government servant has been dismissed, he will be entitled for the earned leave and unearned leave encashments and also for the gratuity and Provident fund contributions. This Court held that these amounts are to be treated as a property owned by a person and therefore, even in the extreme case of dismissal from service, the employee will be entitled for these amounts. In the present case, even though the petitioner is suspended from service by the proceedings of the 3rd respondent dated 06.05.2017, the petitioner will be entitled for earned leave and unearned leave encashments and also for the gratuity and Provident Fund. The same has to be settled by the respondents.

6.In view of the above discussion, there shall be a direction to the 3rd respondent to consider the representations made by the petitioner on 17.12.2018 and 18.12.2019 and sanction the above benefits in line with the judgment of the Division Bench that has been referred supra, by passing appropriate orders, within a period of six weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh

representation to the 3rd respondent along with the copy of the representations dated 17.12.2018 and 18.12.2019 and a copy of this order.

7.This writ petition is disposed of with the above directions. No Costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

ssr

To

1. The Registrar,
Co-operative Societies,
N.V.Natarajan Maligai,
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Kilpaukkam, Chennai - 60 010.
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Coimbatore Region,
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3. The Deputy Registrar,
Co-operative Societies,
Coimbatore Region.
Sinthamani Supermarket Complex,
North Coimbatore.

+1cc to Mr.B.Dinesh Kumar, Advocate, SR.No.7559.
+1cc to Government Pleader, SR.No.7635.

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CP(CO)
CSR: 04.03.2020