

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.30764 of 2013

A.Gopalan

.. Petitioner

- Vs -

1.The Managing Director,
CO-OPTEX,
Head Office at
No.350, Pantheon Road,
Egmore, Chennai 600 008.

2.The Regional Manager,
Co-optex Regional Office,
350, Pantheon Road,
Egmore, Chennai 600 008.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the 1st respondent herein to consider the petitioner's notice of demand dated 02.04.2013 and comply with the genuine request made herein under the payment of Gratuity Act, 1972 and release the Gratuity amount under the care and custody of the 1st respondent herein within the specific period stipulated by this Court.

For Petitioner : Mr.V.Ramana Reddy

For Respondents : Mr.R.Rangesh for R1

ORDER

The writ petition has been filed by the petitioner, to direct the 1st respondent herein to consider the petitioner's notice of demand dated 02.04.2013 and comply with the genuine request made herein under the payment of Gratuity Act, 1972 and release the Gratuity amount under the care and custody of the 1st respondent herein within the specific period stipulated by this Court.

2.The case of the petitioner is that the petitioner is the servant of Co-optex and had completed 32 years of service and retired on superannuation in the capacity as Regional Manager of Co-Optex from Chennai Regional Office. While he was in service, surcharge proceedings were initiated and the surcharge award was passed. Thereafter, the petitioner was paid gratuity and after paying the said amount, again the amount was collected from the petitioner. In this regard, the petitioner made a representation to the respondent, however till date no order was passed. Hence, the present petition.

3.Learned counsel appearing for the petitioner submits that the petitioner has been made to suffer for no fault of his. However, learned counsel for the petitioner submitted that it would suffice if this Court issues a direction to the respondents to pass orders on the demand notice within a reasonable time as fixed by this Court.

4.On the above contention, this Court heard the learned Special Government Pleader appearing for the respondents. A detailed counter has been filed by the 2nd respondent stating that the petitioner was working as Regional Manager in the 1st respondent Society and lastly was working as the Regional Manager in the Regional Office, Chennai. The petitioner was due to retire on attaining the age of superannuation on 31.12.2005, he was paid all his dues on the day of his superannuation that included his gratuity. While he was in service, it was alleged that one employee D.Sundaraj had carried an act of theft by breaking and opening the shutters of Sagar Showroom situate at Kottayam which was under the direct control and supervision of the petitioner. After preliminary enquiry, it was found that a prima facie case was made out against the petitioner and the above report was received by the 1st respondent a day prior to the retirement date of the petitioner and hence the 1st respondent, vide proceedings dated 30.12.2005 issued suspension order against the petitioner. Pending the disciplinary proceedings, the petitioner was not permitted to retire on 31.12.2005. Thereafter enquiry was conducted, which confirmed the irregularities committed by the petitioner and other employees. However, the petitioner requested the management not to initiate disciplinary proceedings and that he voluntarily returned his gratuity amount Rs.6,52,881/- that was paid to him one day before his date of actual retirement. In the above backdrop, learned Special Government Pleader vehemently opposed for a direction as sought for.

5. On perusal of the materials reveal that the conduct of enquiry culminating in in the surcharge order was on account of a loss to the tune of Rs.40,29,733.47 caused to the respondent. The respondents claimed that the petitioner had voluntarily

returned his gratuity amount Rs.6,52,881/- that was paid to him one day before his date of actual retirement, in order to prevent the surcharge award and, hence he is not entitled to any relief.

6. However the present petition has been filed only for direction to the respondents to pass appropriate orders on the demand notice filed by the petitioner. Such being the limited relief sought for, this Court without expressing any opinion, directs the 1st respondent to pass orders on the petitioner's demand notice, within a period of three months from the date of receipt of a copy of this order, in accordance with law.

7. With the above direction, this writ petition is disposed off. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Managing Director,
CO-OPTEX,
Head Office at
No.350, Pantheon Road,
Egmore, Chennai 600 008.

2.The Regional Manager,
Co-optex Regional Office,
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PP(CO)
RMP(14/09/2020)