

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7978 of 2013

And

M.P.No.1 of 2013

V.G.Jayamani

... Petitioner

Vs.

1.The Joint Registrar of Coop. Societies,
Cuddalore Region,
Cuddalore.

2.The Special Officer,
E.2015 Vegakollai Primary Agricultural
Coop. Credit Society,
Vegakollai Post, Kurinjipadi via,
Panruti Taluk,
Cuddalore District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.3826/2012 Thu.Va.Th.1, dated 31.08.2012 and quash the same and consequently directing the respondents to disburse the provident fund, gratuity and all other retirement benefits payable by the respondents to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Co-op.)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.3826/2012 Thu.Va.Th.1, dated 31.08.2012 and to quash the same and to consequently direct the respondents to disburse the provident fund, gratuity

and all other retirement benefits payable by the respondents to the petitioner.

2.The case of the petitioner is that the petitioner was appointed as Secretary in the second respondent Society on 15.11.1976 and he is the founder of Tamilnadu State Primary Co-operative Bank All Employees Association. The said Association consists of 90% of employees who are working in Primary Agricultural Co-operative Credit Societies as members and he is functioning as the General Secretary of the said Association.

3.It is the further case of the petitioner that the petitioner retired from service on 31.01.2012 and the second respondent issued relieving order dated 31.01.2012 stating that his retirement benefits were withheld since there are disciplinary proceedings and surcharge proceedings pending. Aggrieved by the same, the petitioner filed statutory revision under Section 153 of the Tamil Nadu Co-operative Societies Act before the first respondent on 30.04.2012, however, the first respondent rejected the said revision on 02.05.2012.

4.It is the further case of the petitioner that thereafter the petitioner filed W.P.No.13800 of 2012 before this Court seeking to quash the order dated 02.05.2012 and to direct the first respondent to entertain the revision and to dispose of the same on merits. The said writ petition was allowed by this Court on 12.07.2012. Thereafter, the first respondent rejected the revision on 31.08.2012 by passing a detailed order. Hence, this writ petition.

5.The learned counsel appearing for the petitioner would submit that there were nearly five allegations levelled against the petitioner and all the five allegations were set aside by this Court and by the lower Court. Hence, there is no substance in the impugned order as on date.

6.The learned Special Government Pleader (Co-operatives) would submit that there is no record to show that the excess salary received by the petitioner has been set aside. Hence, this Court may grant liberty to the Co-operative Society to deduct the excess salary received by the petitioner to the tune of Rs.2,23,600/- with interest from his salary.

7.At this juncture, the learned counsel appearing for the petitioner would submit that during the pendency of this writ petition, the allegation with regard to excess salary received by the petitioner was challenged and the same was also set aside.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.Perusal of records disclose that as against the first allegation/ surcharge order dated 25.10.1988, the petitioner has filed C.M.A.No.86 of 2002 before the District Munsif Court, Cuddalore and the same was dismissed by the said Court. As against the second allegation/ surcharge order dated 09.06.2003, the petitioner has filed C.M.A.No.89 of 2003 before the Principal District Court, Cuddalore and the said appeal was allowed on 21.09.2012. As against the third allegation/ surcharge order dated 31.08.2012, the petitioner has filed C.M.A (CS).No.8 of 2013 before the Principal District Court, Cuddalore and the said appeal was allowed on 28.03.2018. There is no record to show that the fourth allegation with regard to the excess salary received by the petitioner has been set aside. As against the fifth allegation/ proceedings dated 30.05.2011, the petitioner has filed W.P.No.13717 of 2011 before this Court and the said writ petition was allowed by this Court on 18.02.2014.

10.In view of the above, this Court is inclined to set aside the order impugned in this writ petition and is further inclined to remand the matter back to the respondents for fresh consideration and for recovering the surcharge amount in the order dated 25.10.1988, if not reversed and alleged excess salary received by the petitioner.

11.Accordingly, the order impugned in this writ petition is set aside. The matter is remanded back to the respondents for fresh consideration and for recovering the surcharge amount in the order dated 25.10.1988, if not reversed and alleged excess salary received by the petitioner.

12.The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

pri

To

1.The Joint Registrar of Coop. Societies,
Cuddalore Region,
Cuddalore.

2.The Special Officer,
E.2015 Vegakollai Primary Agricultural
Coop. Credit Society,
Vegakollai Post, Kurinjipadi via,
Panruti Taluk,
Cuddalore District.

+1 cc to M/s.l.P.Shanmugasundaram, Advocate Sr.No. 29397

+1 cc to special Government Pleader (Co-op), Advocate Sr.No. 29520

W.P.No.7978 of 2013

And

M.P.No.1 of 2013

LN (CO)
RMP (06/10/2020)



WEB COPY