



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2020

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.9407 of 2020

M.Krishnamoorthi

... Petitioner

-Vs-

1.The Regional Joint Registrar of Co-operatives Societies,
Integrated Multi Cooperative Buildings,
Annavaasal Road,
Near District Collectorate,
Pudukkottai-622 002.

2.The Deputy Registrar of Co-operative Societies,
Integrated Multi Cooperative Buildings,
Annavaasal Road,
Near District Collectorate,
Pudukkottai-622 002.

3.The President/Sub Registrar/Administrator,
No.7, Keeranoor Primary Agricultural
Co-operative Credit Society,
Keeranoor post, Kulathur Taluk,
Pudukkottai-622 002.

... Respondents

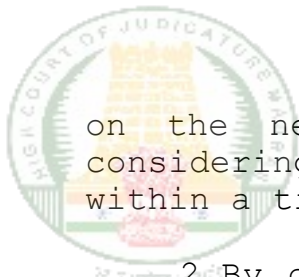
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to sanction Encashment of Leave Salary, General Provident Fund, Gratuity through LIC savings and arrears of salary on the new scale with accrued interest to the petitioner by considering the representation of the petitioner dated 04.12.2019 within a time frame as fixed by this Court.

For Petitioner : Mr.S.Karthikeyan

For Respondents : Mr.A.Thiyagarajan
Government Advocate

ORDER

Prayer sought for herein is for a writ of Mandamus, to direct the respondents to sanction Encashment of Leave Salary, General Provident Fund, Gratuity through LIC savings and arrears of salary



on the new scale with accrued interest to the petitioner by considering the representation of the petitioner dated 04.12.2019 within a time frame to be stipulated by this Court.

2.By consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner was working as a Salesman under the third respondent Society and on superannuation, he had to retire on 31.07.2019, however, he was not permitted to retire on that day of his superannuation, because, there has been an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act (in short the 'Act'), followed by surcharge proceedings under Section 87 of the Act. Subsequently, surcharge proceedings under Section 87 ended against the petitioner, where the petitioner jointly along with other erring employees of the Society, had been directed to pay a sum of more than ten lakhs. As against the said surcharge proceedings order, the petitioner preferred a regular Civil Miscellaneous Appeal before the concerned District Court and the same is still pending.

4.At this juncture, now the grievance of the petitioner is that, unmindful of the pendency of the appeal against Section 87 surcharge proceedings, even though the petitioner had not been permitted to retire from service he would be entitled to get certain retiral benefits like General Provident Fund, Special Provident fund, encashment of leave salary etc., and in respect of those benefits, whether the employee, against whom, a charge is pending or disciplinary proceeding is pending or even assuming that, the employee is ultimately punished pursuant to the disciplinary proceedings, even then the employee would be entitled to get certain benefits.

5.In this regard, the law is well settled that, even a dismissed employee would entitle to get certain benefits like General Provident Fund, Special Provident Fund, surrender leave salary etc.,

6.Therefore, in order to get those benefits, the petitioner has given a representation on 9.08.2019 and 04.12.2019 since those representations have not been considered by the respondents, the petitioner has approached this Court with the aforesaid prayer.

7.Heard the learned counsel appearing for the petitioner, who reiterated the said facts and seeks indulgence of this Court.

8.Heard Mr.A.Thiyagarajan, learned Government Advocate, who takes notice on behalf of the respondents, would submit that, in view of the admitted facts, the petitioner is not entitled to get any other retiral benefits, except the general provident fund,



special provident fund, gratuity and encashment of leave salary and in respect of those eligible retiral benefits, certainly, the request of the petitioner made through representations referred to above, would be considered by the respondents, on merits and in accordance with law, within a time frame to be stipulated by this Court and orders to that effect would be passed.

9.Considering the said submissions made by the learned counsel for both sides, this Court is inclined to dispose of this writ petition with the following directions:

'that the respondents are hereby directed to consider the representations of the petitioner, dated 29.08.2019 and 04.12.2019 with regard to the grievance of the petitioner to get retiral benefits, for which, he is entitled and decide the same, on merits and in accordance with law. After deciding the same, the amount payable to the petitioner shall be calculated and be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.'

10.With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

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