

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2998 of 2021

G.Rajasekaran

... Petitioner

-vs-

- 1.The Joint Registrar of Co-operative Societies.
Salem Regional Registrar Office,
Collectorate, Salem, Salem District.
 - 2.The Deputy Registrar,
Co-operative Societies,
Omalur Division, Omalur,
Salem District.
 - 3.The Co-operative Sub- Registrar/Special Officer,
S.355 Tharamangalam Primary Agricultural
Co-operative Bank Ltd.,
Tharamangalam, Salem District.
 - 4.S.355 Tharamangalam Primary Agricultural
Co-operative Bank Ltd.,
Tharamangalam, Salem District,
Rep. by its President
- ... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Mandamus, directing the respondents to consider and pass orders on the representations of the petitioner dated 08.08.2019 and reminder dated 26.11.2020 and direct the respondents to disburse all the retirement benefits to the petitioner.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.L.P.Shanmuga Sundaram
Spl. Govt. Pleader

O R D E R

The petitioner has filed this writ petition seeking a direction to the respondents to consider and pass orders on the representations of the petitioner dated 08.08.2019 and reminder dated 26.11.2020 and direct the respondents to disburse all the retirement benefits to the petitioner.

2. Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader takes notice for the Respondents. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he was appointed as Salesman in the Vedapatti Co-operative Supermarket on compassionate ground, pursuant to the death of his wife on 02.10.2005, who died in harness while serving as Clerk in the 4th respondent Bank. It is the case of the petitioner that though he was allowed to retire from service by the 4th Respondent on 31.05.2019, retiral benefits have not been disbursed to him and on enquiry, it was informed that he was appointed without getting approval from the higher authorities and therefore, there is an Audit objection. It is further case of the petitioner that the respondents, having utilized his service cannot withhold his retirement benefits and therefore, he made a representation to the respondents on 08.08.2019, followed by a reminder dated 26.11.2020 for disbursement of his retirement benefits. Since the said representations did not evoke any response, he is before this Court.

4. Learned Special Government Pleader contended that the 1st respondent is the competent Authority to decide the issue and if a reasonable time is granted to him, the representation of the petitioner will be considered and suitable orders be passed on the same.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the representation of the petitioner dated 08.08.2019 followed reminder dated 26.11.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing either physically or virtually, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 08.08.2019 and 26.11.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

1.The Joint Registrar of Co-operative Societies.
Salem Regional Registrar Office,
Collectorate, Salem,
Salem District.

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2.The Deputy Registrar,
Co-operative Societies,
Omalur Division, Omalur,
Salem District.

3.The Co-operative Sub- Registrar/Special Officer,
S.355 Tharamangalam Primary Agricultural
Co-operative Bank Ltd.,
Tharamangalam, Salem District.

4.The President
S.355 Tharamangalam Primary Agricultural
Co-operative Bank Ltd.,
Tharamangalam, Salem District.

+lcc to Mr.Duraisamy, Advocate, SR.No.8013.
+lcc to the Government Pleader, SR.No.8058.

W.P.No.2998 of 2021

MG(CO)
CSR 28.04.2021



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