

IN THE HIGH COURT OF JUDICATURE AT MADRAS

PRONOUNCED ON : 30.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.16060 of 2015
and M.P.Nos.1 & 2 of 2015

N.S.Anbalagan

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
Vellore Region,
Vellore-632 009.
- 2.The Deputy Registrar of Co-operative Societies,
Pudupettai,
Tirupathur,
Vellore District.
- 3.The President,
Tirupattur Co-operative Primary Agricultural Rural &
Development Bank Ltd., C-2016,
Cutchery Street, Tirupattur,
Vellore District-635 601.
(R3-amended as per order dated 10.06.2015
by this Court in MP.3/2015 in WP.16060/2015)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Mandamus, calling for the records relating to the proceedings of the third respondent in No.Nil dated 13.05.2015 and to quash the same and consequently direct the respondents to settle the retirement benefits payable to the petitioner including Employees Provident Fund, Gratuity and Surrender Leave Salary as on the date of retirement on 28.02.2011 along with interest till the date of payment, within a time frame as fixed by this Court.

For Petitioner : Mr.S.N.Sakthivel

For Respondents:Mr.L.P.Shanmugasundaram, SGP

O R D E R

The present Writ Petition is heard through Video Conferencing on 30.04.2021.

2. Heard the learned counsel on either side.

3. The petitioner herein, was an employee of the third respondent Co-operative Bank. The surcharge proceedings initiated against the petitioner, while he was in service, came to be dropped and the petitioner was also acquitted from the criminal case against him. In the meantime, the first respondent herein had passed orders on 31.03.2015, in a revision petition holding that the petitioner should be paid with the provident fund and gratuity with a consequential direction to the third respondent to disburse the same.

4. In the counter affidavit filed by the third respondent, it is stated that the terminal benefits of Rs.18,44,681/- was disbursed on various dates between 16.06.2015 and 21.07.2015. While calculating the terminal benefits, the interest on the outstanding dues were paid at the rate of 8.5% p.a. for the EPF and gratuity. The petitioner herein is aggrieved against the percentage of interest payable to the petitioner, as well as non payment of salaries when the petitioner herein was holding the charge of the Secretary of the third respondent bank.

5. Insofar as the salaries with regard to the claim for the post of Secretary is concerned, it is brought to the notice of this Court that the petitioner was never appointed as Secretary of the third respondent bank, but was only holding the post as "in-charge". This statement is not disputed. When the petitioner was not regularly appointed to the post of Secretary, he would not be justified in claiming the arrears of payment for the 'in-charge' post of Secretary.

6. Insofar as the rate of interest payable on the belated retirement dues are concerned, the learned Special Government Pleader for the third respondent, fairly submitted that on earlier occasions, the third respondent bank had paid interest on the belated payment of the terminal benefits to an employee of the bank, at the rate of 12% p.a. The learned Special Government Pleader had also produced the working sheet and the written instructions of the third respondent bank before this Court, which evidences that, one Mr.R.Murugan was paid interest on the belated payment of gratuity and earned leave at the rate of 12% p.a. While that being so, the interest now paid to the petitioner, at the rate of 8.5% p.a., could be termed as discriminatory. Consequently, the petitioner is entitled to

payment of interest at the rate of 12% p.a. on the belated settlement of the terminal benefits, on par with the similarly placed former employee.

7. In the light of the above observations, there shall be a direction to the third respondent herein to pay the difference of interest amount between 8.5% to 12%, on the belated payment of the gratuity and earned leave, from the date on which it was due respectively, till the date of actual disbursement. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. Consequently, connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP
To

- 1.The Joint Registrar of Co-operative Societies,
Vellore Region,
Vellore-632 009.
- 2.The Deputy Registrar of Co-operative Societies,
Pudupettai,
Tirupathur,
Vellore District.
- 3.The President,
Tirupattur Co-operative Primary Agricultural Rural &
Development Bank Ltd., C-2016,
Cutcheri Street, Tirupattur,
Vellore District-635 601.

+1cc to the Special Government Pleader Sr.27016

W.P.No.16060 of 2015
and M.P.Nos.1 & 2 of 2015

sv[co]
srg 18/06/2021