

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5383 of 2021  
(Heard through VC)

I.Magbul Basha

.. Petitioner

-vs-

1.The Deputy Registrar,  
Co-operative Society,  
Vrithachalam.

2.The Joint Registrar,  
Co-operative Societies,  
Cuddalore.

3.The Management,  
E.1430 Vrithachalam Agricultural Producers,  
Co-operative Sales Society,  
Rep. by its President,  
Vrithachalam.

.. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the representation dated 28.07.2020 and give all retirement benefits.

For Petitioner : Mr.K.Prakash

For Respondents : Mr.L.P.Shanmugasundaram  
Special Government Pleader

O R D E R

The petitioner has come forward with this writ petition seeking a direction to the first respondent to consider his representation dated 28.07.2020 and to give all retirement benefits.

2. Mr.L.P.Shanmugasundaram, learned Special Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioner is that while working as Godown Swiping Assistant in the first respondent-Society, a recovery proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, has been initiated against the petitioner along with the co-workers, by the first respondent in Na.Ka.No.2086/08/SA.PA dated 11.02.2009 in respect of alleged loss to the tune of Rs.32,95,075.28 caused by the petitioner along with the co-workers. Aggrieved by the said order, the petitioner has preferred an appeal before the Principal District Judge, Cuddalore and on 21.12.2018, the learned Judge has set aside the surcharge order passed by the first respondent. The petitioner retired from service on 31.01.2012. Even though the surcharge order passed by the first respondent was set aside, the respondents have not given his retirement benefits. In this regard, the petitioner has made a representation dated 28.07.2020 to the first respondent. But till date, no orders have been passed by the first respondent. Hence, this writ petition.

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 first respondent herein to consider the representation submitted by the petitioner dated 28.07.2020, 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 60 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, 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 first 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 representation dated 28.07.2020 and this order, to the first respondent forthwith;

v) The first 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 VII)

//True Copy//

Sub Assistant Registrar

rsi

To

- 1.The Deputy Registrar,  
Co-operative Society,  
Vridhachalam.
- 2.The Joint Registrar,  
Co-operative Societies,  
Cuddalore.
- 3.The Management,  
E.1430 Vrithachalam Agricultural Producers,  
Co-operative Sales Society,  
Rep. by its President,  
Vrithachalam.

+1cc to Mr.K.Prakash, Advocate, S.R.No.1507

+1cc to the Government Pleader, S.R.No.14886

W.P.No.5383 of 2021

AJB(CO)  
KM(30/04/2021)