

IN The HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.03.2021
CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7317 of 2021 and
WMP No.7819 of 2021

K.Nirmala

... Petitioner

-vs-

The Managing Director,
Chennai Central Cooperative Bank,
215, Prakasam Salai,
Chennai 108.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to pay the balance terminal benefits after taking into account all the pay fixations, promotions, regular increments, corresponding dearness allowances, HRA, CCA and other wage revision and settlement benefits to the petitioner at an earliest day.

For Petitioner : Mr.S.Mohan

For Respondents: Mr.S.Karthikeibalan,
Government Advocate for
Mr.L.P.Shanmugasundaram,
Additional Government Pleader

ORDER

This Writ petition is filed, seeking a direction to the respondent to pay the balance terminal benefits after taking into account all the pay fixations, promotions, regular increments, corresponding dearness allowances, HRA, CCA and other wage revision and settlement benefits to the petitioner.

2. Mr.S.Karthikeibalan, learned Government Advocate, takes notice for respondent. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. It is the case of the petitioner that the petitioner was working in the respondent Bank since 1986 as Jewel appraiser and she was suspended from service on 27.01.2007 for committing certain irregularities and thereafter she was dismissed from service on 08.04.2009 after conducting a domestic enquiry. Aggrieved by the said dismissal, the petitioner preferred an

appeal before the Deputy Commissioner of Labour, Chennai and the same was allowed by setting aside the dismissal order of the respondent, dated 08.04.2009. Thereafter, the respondent preferred a Writ petition before this Court in W.P.No.20654 of 2011 and by an order dated 29.11.2011, this Court dismissed the Writ petition. As against the same, the respondent preferred an appeal in W.A.No.1136 of 2012 before this Court and the same was also dismissed on 19.12.2014. It is also stated that the respondent also preferred Special Leave petition followed by a review petition before the Hon'ble Supreme Court and both were dismissed. In this circumstance, the petitioner attained the age of Superannuation on 31.12.2016 and the respondent had settled only a sum of Rs.22,06,910/- after deducting the statutory dues. According to the petitioner, the petitioner deemed to have not been dismissed by the Bank and been continuously in service of the Bank till her retirement. Hence, she made representation on 29.01.2021 to settle the terminal benefits which are due to the petitioner. As there was no response, the petitioner is before this Court with the aforesaid relief.

4. The learned counsel for the petitioner submitted that it would suffice, if the representation made by the petitioner on 29.01.2021 is directed to be considered and dispose of by the respondent on merits.

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 respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondent herein to consider the representation preferred by the petitioner dated 29.01.2021, 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 120 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 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 29.01.2021 and this order, to the respondent forthwith;

v) The 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vum

To

The Managing Director,
Chennai Central Cooperative Bank,
215, Prakasam Salai,
Chennai 108.

+cc to M/S.S.Mohan, Advocate Sr.No.18312

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JP II(CO)
baf 11/05/2021