

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7986 of 2021

A.Krishnamoorthy

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies/
Revisional Authority,
Villupuram Region, Villupuram,
Villupuram District.
2. The President,
CL.SPL.106, Marakkanam Primary
Agricultural Co-op. Credit Society,
Marakkanam Post,
Tindivanam Taluk,
Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st Respondent in his proceedings Na.Ka.1598/2018/Sa.Pa., dated 24.06.2020 and quash the same and consequently direct the Respondents to disburse interest at the rate of 10% for the belated payment of gratuity from the date of retirement till the date of disbursement of gratuity to the Petitioner.

For Petitioner : Mr.C.Prakasam

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

O R D E R

Petitioner has come up with this Writ Petition seeking to quash the proceedings of the 1st Respondent vide Na.Ka.1598/2018/Sa.Pa., dated 24.06.2020, passed under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, rejecting the interest payable to him on the ground that, the Society is under financial stress, and for a consequential

direction to the Respondents to disburse interest at the rate of 10% for the belated payment of gratuity from the date of his retirement till the date of disbursement of gratuity.

2. When the matter was taken up for hearing, learned Special Government Pleader appearing for the Respondents submitted that, gratuity has been paid to the Petitioner in four instalments commencing 24.07.2020 till 02.11.2020.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. The Respondent/Society is governed by the Payment of Gratuity Act, 1972 and in terms of the said Act, moreso, in view of Section 7(3A) of the Act, if the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified therein, the employer shall pay interest at 10% per annum, in the light of the Notification issued under the said Act.

5. For better appreciation, Section 7(3-A) of the Payment of Gratuity Act, 1972 and the relevant Notifications are extracted below:

7(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.

Notification under Section 7(3-A):-

S.O.874: In exercise of powers conferred by sub-Section (3A) of Section 7 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies ten per cent per annum as the rate of simple interest payable for the time being by the employer to his employee in cases where the gratuity is not paid within the specified

period.

2. This notification shall come into force on the date of its publication in the Official Gazette (vide the Gazette of India, Extraordinary, Pt.II, Section 3(ii) dated the 1st October 1987, at p.2).

Notification under Section 8:-

S.O.1032(E). - In exercise of the powers conferred by Section 8 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby specifies 15 per cent per annum as the rate of compound interest, recoverable by the Collector for the time being, along with the amount of gratuity and payable to the person entitled thereto.

6. Since the employee has not been deprived of gratuity by the impugned order, but has been directed to be paid gratuity in four instalments due to financial constraint, moreso, in the pandemic situation, this Court is not inclined to interfere with the impugned order. However, this Court holds that, the Petitioner is entitled to interest at 10% per annum from the date of his retirement till the date of payment of gratuity. If interest on the gratuity amount is not paid to the Petitioner within sixty days from the date of receipt of a copy of this order, interest can be recovered at 15% per annum in terms of Section 8 of the Payment of Gratuity Act, 1972, as mentioned supra.

The Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.Nos.8544 and 8546 of 2021 are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

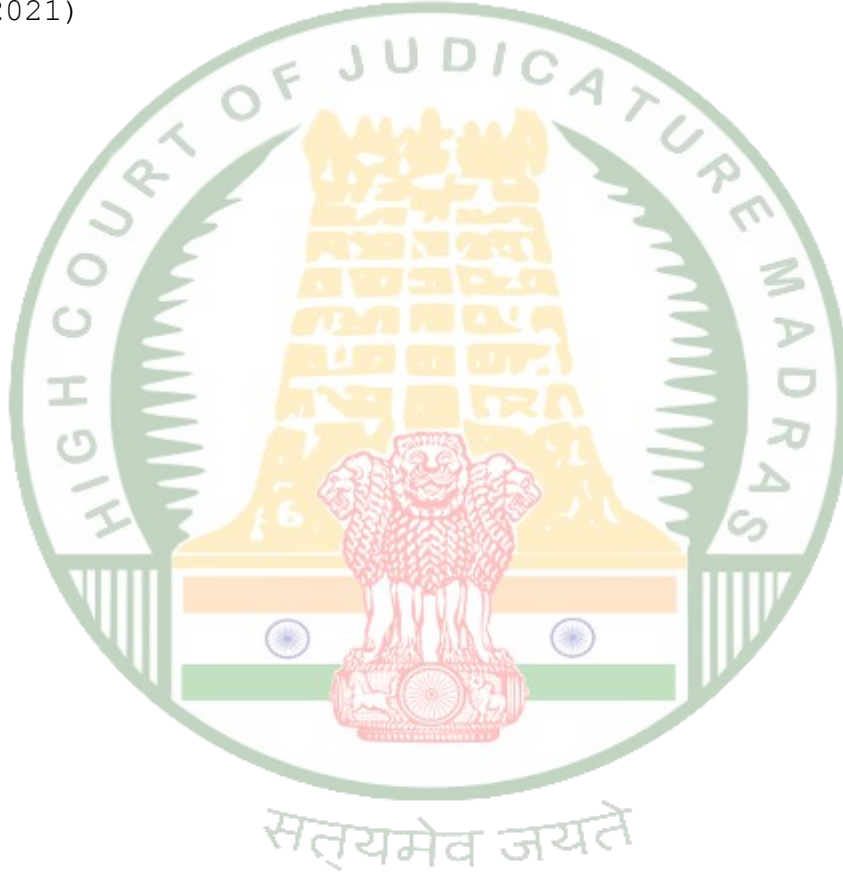
1. The Joint Registrar of Co-operative Societies/
Revisional Authority,
Villupuram Region, Villupuram,
Villupuram District.

2. The President,
CL.SPL.106, Marakkanam Primary
Agricultural Co-op. Credit Society,
Marakkanam Post,
Tindivanam Taluk,
Villupuram District.

+1cc to Special Government Pleader(CO-OP), S.R.No.21765

W.P.No.7986 of 2021

UM(CO)
CB(12/07/2021)



WEB COPY