



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Twenty Second day of December Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE V.PARTHIBAN

WMP.No.13796 of 2020

IN WP.No.11309 of 2020

K.VENKATARAMAN

[PETITIONER]

Vs

1 JOINT REGISTRAR OF COOPERATIVE SOCIETIES,
VELLORE ZONE, VELLORE

[RESPONDENTS]

2 THE MANAGEMENT
V.L (THANI) 213, SATHAMBAKKAM,
PRIMARY AGRICULTURAL COOPERATIVE CREDIT SOCIETY,
WALLAJA TALUK, VELLORE DISTRICT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the 2nd Respondent to pay Rs.15,000/- to every month to the petitioner, (IN WMP.No.13796/2020) pending disposal of the WP.No.11309/2020.

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.BALAN HARIDAS, Advocate for the petitioner and of MR.L.P.SHANMUGHASUNDARAM, Advocate for the 1 and 2 Respondents, the court made the following order:-

The case of the petitioner is that he was working as a salesman in the second respondent Society having joined originally in 1989. In 2009. he was promoted as Assistant and thereafter as Secretary. On 04.04.2014, he was placed under suspension on the ground that he had misappropriated a sum of Rs.3,07,426/-, received towards crop insurance.

2. Thereafter a charge memo was issued on 21.05.2014 and despite the explanation by the petitioner denying the charges, an enquiry was conducted into the charges. After conclusion of the enquiry, a report was submitted holding that charges 1, 2, 3 and 5 were fully proved and charge No.4 was partly proved. Ultimately, by order dated 24.03.2015, the petitioner was dismissed from service.



3. The petitioner thereafter filed a revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. The first respondent, after consideration of the revision petition, vide order dated 06.07.2015 set aside the order of dismissal and modified the punishment into one of stoppage of increment of one year without cumulative effect. However, the second respondent society without implementing the order of the first respondent has approached this Court by filing a Writ Petition in W.P.No.26349 of 2015.

4. This Court, vide order dated 27.03.2019 allowed the said Writ Petition on the ground that the order of the first respondent was a non-speaking order and directed the first respondent to decide the revision petition on merits and pass a reasoned order.

5. In pursuance of the order of this Court, the first respondent vide order dated 27.07.2019 modified the original order of punishment into one of stoppage of increment for three years without cumulative effect and treated the period from the date of dismissal till reinstatement as one of leave.

6. The second respondent, even thereafter, did not reinstate the petitioner which necessitated the petitioner to file a review petition before the first respondent. In the said circumstances, the petitioner was constrained to file W.P.No.33882 of 2019 seeking a direction to the second respondent to reinstate him with all consequential benefits in terms of order dated 27.07.2019.

7. This Court disposed the aforesaid Writ Petition on 18.12.2019 directing the first respondent to pass orders on the review petition within a period of four weeks. Thereafter, the first respondent vide order dated 21.02.2020 while confirming the order passed in the revision petition modified the earlier order in regard to payment of subsistence allowance during the period of suspension of the petitioner and treated the period from the date of dismissal till the date of reinstatement as no work no pay.

8. Challenging both the orders of the first respondent dated 27.07.2019 and 21.02.2020, the present Writ Petition has been filed along with the above Miscellaneous Petition seeking interim payment of Rs.15,000/- per month pending disposal of the Writ Petition, as the petitioner has been languishing and suffering without employment and has not been reinstated by the second respondent.

9. Mr.Balan Haridas, learned counsel for the petitioner would submit that in an identical circumstance, this Court has passed orders granting last drawn wages to the petitioner vide its order dated 31.01.2018 in WMP .No.27944 of 2017 in W.P.No.9020 of 2017. Learned counsel would refer to paragraph Nos.2 to 9 of the order, which are extracted hereunder:



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2. Although while admitting the writ petition, this Court has granted stay of the order passed by the second respondent herein, the petitioner herein has now filed a direction petition for payment of last drawn wages under Section 17 [B] of the Industrial Disputes Act. According to her, at the time of dismissal from service she was drawing a salary of Rs.13,845/-. Although direction petition was filed under Section 17[B] of the Industrial Disputes Act, the learned counsel for the petitioner herein would submit that the principles of justice, equity and good conscience have to be adopted while disposing of the petition.

3.The learned counsel for the petitioner would draw the attention of this Court to the order passed by the Division Bench of this court reported in 2005 (2) LLJ 493 in Management of Lakshmi Vilas Bank, Karur vs. Deputy Commissioner of Labour, wherein the Division Bench has held that even in the absence of any statutory provision, Section 17 [B] can be attracted and last drawn pay can be granted. In the said case, although the last pay drawn by the employee therein was found to be Rs.16,500/-, the last Division Bench has ordered payment of Rs.6,000/- per month, till the disposal of that writ petition.

4.The learned counsel would submit that some payment has to be ordered otherwise, the petitioner herein would suffer irreparable loss and hardship, in view of the pendency of the writ petition and also the fact that the disposal of the writ petition is likely to be considerably delayed.

5.Upon notice, Mr.J.Karthikeyan, the learned counsel entered appearance for the first respondent/Management, who is the writ petitioner herein. He would submit that date has to be fixed for final disposal of the writ petition and this direction petition is not maintainable, as there is no provision for payment of last drawn wages under the Tamil Nadu Co-operative Societies Act.

6.This Court considered the rival submissions and is in agreement with the submissions made by the learned counsel for the petitioner that mere absence of provision cannot disentitle the petitioner to receive last drawn pay, pending finalisation of the writ petition. As rightly held by the Division Bench of this court aforementioned, the petitioner is entitled to some payment towards her salary pending finalisation of the writ petition by this Court, without prejudice to the rights of the parties in the writ petition.



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7. Therefore, this Court of the considered view that although last drawn wages was said to be Rs.13845/- as drawn by the petitioner at the time of dismissal from service, this court in the fitness of things, deems it fit to fix Rs.10,000/- as reasonable monthly payment towards salary payable by the writ petitioner from the date of admission of the Writ Petition by this Court.

8. The first respondent society is directed to pay Rs.10,000/- to the petitioner every month till the final disposal of the writ petition. The amount so paid shall be adjusted at the final outcome of the writ petition

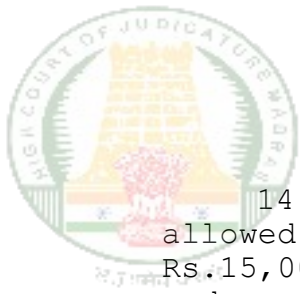
9. with the above direction, this Writ Miscellaneous Petition is disposed of.

10. On behalf of the respondents, Mr.L.P.Shanmugasundaram, learned counsel appeared. According to him, the petitioner is not entitled to grant of any interim relief as he was alleged to have misappropriated a sum of Rs.3.00 lakhs due to the society and therefore no indulgence need to be shown to this petitioner.

11. Even though the objection on behalf of the Society appears to be having some force, yet when the revisional/review authority has interfered with the orders of dismissal from service and imposed lesser penalty as mentioned above, it is incumbent upon the Society to implement the orders by reinstating the petitioner in service. However, for some reason the reinstatement has not been ordered by the second respondent Society.

12. Though the petitioner is armed with the order of reinstatement, he cannot be denied the last drawn wages payable to him in terms of the principle to be adopted by this Court as provided under Section 17B of the Industrial Disputes Act. In fact, in similar circumstances, this Court has directed payment of last drawn wages.

13. In this case, the petitioner has prayed for grant of Rs.15,000/- per month, being his last drawn wage and since the same has not been disputed factually, the petitioner is entitled to be paid the last drawn wages pending disposal of the Writ Petition.



14. In the said circumstances, this Miscellaneous Petition is allowed and the second respondent is directed to pay a sum of Rs.15,000/- every month to the petitioner, commencing from 01.12.2021 and continue to pay the same until further orders of this Court or disposal of the Writ Petition, whichever is earlier.

-sd/-
22/12/2021

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Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 JOINT REGISTRAR OF COOPERATIVE SOCIETIES,
VELLORE ZONE, VELLORE

2 THE MANAGEMENT
V.L (THANI) 213, SATHAMBAKKAM,
PRIMARY AGRICULTURAL COOPERATIVE CREDIT SOCIETY,
WALLAJA TALUK, VELLORE DISTRICT

C.C. to M/S.BALAN HARIDAS, Advocate SR.NO. 7706/2021.

Order
in
WMP.No.13796 of 2020
IN WP.No.11309 of 2020
Date :22/12/2021

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