IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

W.A. No. 1871 of 2021
&
C.M.P. No. 11898 of 2021

The President,
Thirupathur Co-operative Primary
Agricultural and Rural
Development Bank Ltd.,
Cutchery Street,
Thirupathur PO – 635 601.
Vellore ..Appellant/3rd Respondent

Vs.

1. The Joint Registrar of Co-operative Societies,
Vellore Region, Vellore,
Pin – 632 009.

2. The Deputy Registrar of Co-operative Societies, Pudupettai,
Tirupathur – 635 601.
... Respondent 1 & 2/Respondents 1 & 2

3.Mr.N.S. Anbalagan ..3rd Respondent/Petitioner

Prayer: Writ Appeal as against the order dated 30.04.2021 passed in W.P. No. 16060 of 2015 by the Hon'ble High Court.

Prayer in WP 16060 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, call for the records relating to the proceedings of the 3rd respondent in No.Nil dated 13.5.2015 and to quash the same and consequently directing 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 28.2.2011 along with interest till the Date of Payment.

For Appellant : Mr.P. Anbarasan

For Respondents : Mr.K. Tippu Sultan
Govt. Advocate for R1 & R2
Mr. R. Suryakumaran for R3

J U D G M E N T

(Judgment of the Court was delivered by S. VAIDYANATHAN,J.)

This writ appeal has been preferred against the order 30.04.2021 passed in W.P. No. 16060 of 2015.

2. The grievance of the appellant Co-operative Bank is that the learned Single Judge ought not to have awarded interest @ 12% per annum for belated payment of retirement dues on the ground that another employee had been granted at the same rate on the terminal benefits like Gratuity, Earned Leave, etc. According to the learned counsel for the appellant, the other employee, who was granted 12% interest per annum on terminal benefits had retired in 2006 whereas the 3rd respondent in this case had retired in 2011, therefore, directing the Society to pay interest @ 12% per annum is not warranted. In support of his contention, the learned counsel for the appellant has relied upon the judgment of the Honourable Apex Court in S.K. Dua V. State of Haryana reported in 2008 (3) SCC 44, which was followed by a Division Bench of this Court in State of Tamil Nadu V. M. Deivasigamani reported in 2009 (3) MLJ 1 and submitted that the rate of interest requires to be reduced and that all the employees of the Society have been granted interest only @ 8.5% per annum on retiral benefits, in case, there is a delay in settlement of the same.

3. On the other hand, learned counsel for the 3rd respondent/writ petitioner would submit that once an employee retires from service, the terminal benefits have got to be settled at the earliest and at least, within a period of 30 days from the date of retirement. In this case, there was delay in payment of retirement benefits and as the request of the 3rd respondent/writ petitioner was turned down, he had approached this Court seeking interest on the belated payment, which has been rightly considered by the learned Single Judge.

4. Heard both paties.

5. It is not in dispute that the 3rd respondent/writ petitioner attained the age of superannuation on 28.02.2011 and his terminal benefits have been settled. As there was a delay in settlement of terminal benefits, he approached this Court for interest on belated payment at the rate that may be fixed by this Court. However, taking note of the fact that another employee has been paid 12% interest per annum, this Court

granted 12% interest per annum on the retiral benefits for the writ petitioner also. The rate of interest that was prevalent during the year 2006 was definitely higher and it cannot be equated for the future years. Of course, money value has come down and even 12% interest per annum is not going to fetch the money value lost. Section 7(3A) of The Payment of Gratuity Act, 1972 prescribes rate of interest @ 10% per annum on belated payment of gratuity and in case of recovery, rate of interest @15% per annum has been prescribed. Though the order of the learned Single Judge in awarding rate of interest @ 12% per annum cannot be held to be incorrect, taking note of the pandemic situation, this Court reduces the rate of interest to 10% per annum and the interest for the belated payment of gratuity, earned leave, etc shall be paid within a period of 3 months from the date of receipt of a copy of this order.

6. Insofar as Provident Fund is concerned, it is open to the employer to remit it to the Provident Fund Account in terms of the provisions of EPF Act, 1952. The writ appeal is disposed of with the above modification. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Registrar of Co-operative Societies,
Vellore Region, Vellore,
Pin - 632 009.

2. The Deputy Registrar of Co-operative Societies, Pudupettai,
Tirupathur - 635 601.

+1CC to Mr.R.Suryakumaran, Advocate, Sr.No.49718
+1CC to Mr.P.Anbarasan, Advocate, Sr.No.48868
+1CC to Mr.Government Pleader, Sr.No.49798

W.A. No.1871 of 2021

SJ (CO)
K.RK. (25.10.2021)