



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.1062 of 2021

and

C.M.P. [MD]No.4747 of 2021

- 1.The Registrar of Co-operative Societies (Housing),
Office of the Registrar of Co-operative Societies,
Chennai.
- 2.The Regional Deputy Registrar (Housing),
Khajamalai, Trichy - 20. : Appellants/Respondents 1 & 2

Vs.

- 1.S.Murugavadivelan ... 1st Respondent/Writ Petitioner
- 2.The President,
TRY (HSG) 18, Manapparai Taluk Co-operative Housing Society Ltd.,
PVSA Complex,
Mariyamman Kovil Street,
Manapparai Taluk,
Trichy District. : 2nd Respondent/3rd Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 05.03.2019, in W.P.[MD]No.16390 of 2015.

Prayer in WP(MD). 16390 of 2015 :

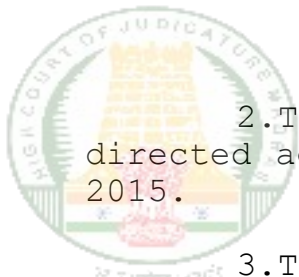
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the Respondents to settle the Retirement Benefits i.e. Provident Fund, Gratuity, Earned Leave, Arrears of salary and all other accrued benefits to the Petitioners along with 12% interest from the date of retirement on 31.05.2012.

For Appellants	: Mr.A.K.Manickam
	Standing Counsel for Government
For Respondent No.1	: Mr.S.Vinayak
For Respondent No.2	: No appearance

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

With the consent on either side, this Writ Appeal is taken up for final disposal.



2.This appeal by the Registrar of Co-operative Societies, is directed against the order dated 05.03.2019, in W.P.[MD]No.16390 of 2015.

3.The first respondent, who was working as a Secretary of the second respondent Society, retired from service on attaining the age of superannuation on 31.05.2012. However, his retirement benefits namely, Provident Fund, Gratuity, Earned Leave and arrears of Leave Salary and other approved benefits were not paid. Therefore, a writ petition was filed in the year 2015, praying for a direction upon the appellants as well as the second respondent Society to settle the retirement benefits together with interest at 12% p.a. Learned Single Bench, taking note of the undisputed facts that the first respondent / writ petitioner was allowed to retire from service, directed the benefits to be paid together with interest at the rate of 8% p.a. from the date of retirement till the date of claim.

4.The appellants are before this Court by contending that the second respondent Society has been wound up and a liquidator has been appointed pursuant to the orders of the second appellant on 18.12.2019 and in the liquidation proceedings, preference will be given to the depositors. Further, it is submitted by the appellants that the outstanding of the second respondent society as on 30.09.2019 is Rs.37,96,000/- excluding interest and the Society is in arrears of Rs.41,20,000/- to the Tamil Nadu Co-operative Housing Federation. Further, it is submitted that balance loan amount to be recovered from the borrowers is Rs.3,24,000/-. Even if the same is recovered, it will not be sufficient to defray even the arrears of salary of the serving employees.

5.It may be true that the second respondent Society has been wound up. In fact, in the grounds of appeal filed by the appellants, they would blame the first respondent for the present situation to which the Society has been pushed. However, the appellants do not dispute the fact that the first respondent has been allowed to retire on attaining the age of superannuation. Therefore, at this juncture, by citing that the affairs of the Society was not properly managed cannot be a reason to deny the retirement benefits payable to the first respondent.

6.In the light of the above, we find no good reason to interfere with the order and direction issued by the learned Single Bench. However, considering the fact that the second respondent Society has already been wound up and liquidation proceedings are being undertaken, we modify the percentage of interest granted to the first respondent and the retirement benefits by reducing it to 6% instead of 8%. Except for the above modification, the order and direction issued is confirmed.



7.The Writ Appeal stands dismissed, accordingly. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR/RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Registrar of Co-operative Societies (Housing),
Office of the Registrar of Co-operative Societies,
Chennai.
- 2.The Regional Deputy Registrar (Housing),
Khajamalai, Trichy - 20.

JUDGMENT MADE IN
W.A. [MD]No.1062 of 2021
03.06.2021

ma (CO)
TR(23.06.2021) 3P 3C