



WEB COPY

W.A(MD)No.1445 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A(MD)No.1445 of 2021
and CMP(MD) .5935 of 2021

The Secretary
M.D. Spl. 54, Santhaiyur Primary Agriculture
Co-operative Credit Society Ltd.
Santhaiyur,
Peraiyur Taluk,
Madurai District.

... Appellant/3rd Respondent

Vs.

1. S. Ayyanar

... 1st Respondent/Petitioner

2. The Joint Registrar,
Office of the Joint Registrar of Co-operative Societies,
Palanganatham,
Madurai - 625003

... 2nd Respondent/1st Respondent

3. The Deputy Registrar,
Office of the Deputy Registrar of Co-operative Societies,
Jawahar Nagar,
Usilampatti at Thirumangalam,
Thirumangalam Post,
Madurai District.

... 3rd Respondent/2nd Respondent

Prayer: Appeal filed under Clause 15 of Letters Patent to set aside the impugned order dated 17.03.2021 passed in W.P.(MD) No.5987 of 2021.

Prayer in WP(MD). 5987 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the respondents 1 and 2 to sanction and settle the petitioners personal benefits like encashment of earned leave salary PF amount and gratuity with interest at the rate of 1 percentage from 30.4.2001 based on his representation dt 23.12.2019 and 31.10.2020 within the period that may be stipulated by this Court.

For Appellant

: Mr.A. Selvam

For Respondents

: Mr. R. Saravanan for R1

Mr. A.K. Manikkam

Senior Counsel for Government

for R2 and R3



JUDGMENT

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

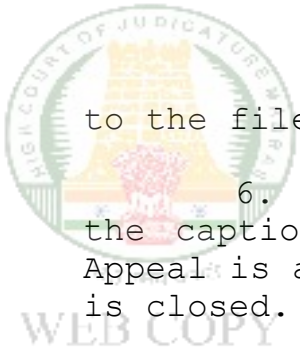
Heard Mr. A. Selvam, learned counsel for the appellant and Mr. R. Saravanan, learned counsel for the first respondent and Mr. A.K. Manikkam, learned Government counsel for the respondents 2 and 3.

2. This Writ Appeal is directed against the order dated 17.03.2021 in W.P.(MD)No. 5987 of 2021 filed by the first respondent herein. The first respondent sought for a direction upon the respondents 2 and 3 herein to sanction and settle personal benefits like encashment of earned leave, salary PF amount and gratuity with interest at the rate of 1% from 30.04.2001 by considering his representations dated 23.12.2019 and 03.10.2020.

3. The learned Writ Court by taking note of a judgment of the Division Bench, **TANSIDCO & P.K. Panchaksharam** and others in W.A. 207 of 2016 dated 26.02.2016, disposed of the Writ Petition by directing the respondents 2 and 3 herein to disburse the said claims within a time frame.

4. The appellant before us is the co-operative society against whom the writ petitioner made the claim. This appellant society was impleaded as a third respondent in the Writ Petition. However, without notice to the appellant, the writ petition has been disposed of at the admission stage as could be seen from the impugned order.

5. The appellant is before us contending that the writ petitioner is not eligible to get any of the claims which he has sought for as he does not possess the requisite qualification, he was only a sales man on daily wages, his appointment on daily wages itself was irregular and the audit report for the year 1986-87 and 1993-94 states that the first respondent is not in service. Apart from that other legal grounds have also been raised. Since the appellant is the appropriate contesting respondent in the writ petition, the appellant ought to have been heard in the matter and the learned Writ Court committed an error in allowing the writ petition at the admission stage presumably for the reason that the amount has to be sanctioned by the respondents 2 and 3 herein, who were the respondents 1 and 2 in the writ petition. However, for the writ petitioner to be entitled to the relief sought for, the first and foremost issue to be decided is whether he is eligible to get such an entitlement because the appellant society has questioned his eligibility. Therefore, we are of the view the writ petition has to be once again heard and decided on merits. For the above reasons, the Writ Appeal is allowed and the order dated 17.03.2021 in W.P. (MD).No 5987 of 2021 is set aside and the Writ Petition is restored



to the file of the learned Single Judge.

6. The Registry is directed to list the Writ Petition under the caption for 'admission' before the appropriate court. Writ Appeal is allowed with the above direction. No costs. Connected CMP is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

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 Joint Registrar,
Office of the Joint Registrar of Co-operative Societies,
Palanganatham,
Madurai - 625003
2. The Deputy Registrar,
Office of the Deputy Registrar of Co-operative Societies,
Jawahar Nagar,
Usilampatti at Thirumangalam,
Thirumangalam Post,
Madurai District.

Copy to
The Section Officer, Writ Section,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.A.SELVAM, Advocate (SR-24092[F] dated 27/07/2021)

+1 CC to M/s.SPL GP (SR-24206[F] dated 28/07/2021)

ORDER MADE IN
W.A(MD)No.1445 of 2021
26.07.2021

ES (CO)

TR(05.08.2021) 3P 7C

<https://hcservices.ecourts.gov.in/hcservices/>