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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.16488 of 2013

G.Pandurangan

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Salem Circle, Salem.

2.Automobile Engineer,
Government Automobile Workshop,
Cuddalore.

3.Secretary,
Government Regional Workshop Employees'
Co-operative Thrift & Credit Society Ltd.,
Salem.

4.Subramanian

5.Government Automobile Workshop,
Cuddalore District, Cuddalore.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records and to quash the proceedings of 2nd respondent in his Se.Mu.Order dated A1/449/12 dated 22.01.2013 and consequently, to direct the respondent to pay petitioner the amount of Rs.1,48,388/- with interest and cost.

For Petitioner : Mr.D.Baskar

For Respondents: Mr.M.R.Gokul Krishnan [R1]
Additional Government Pleader
Mr.M.S.Palaniswamy [R3]
No Appearance [R2, R4 & R5]

ORDER

The petitioner herein, while serving as a watchman, had retired from the service on 31.07.2012. Based on the proceedings initiated against the fourth respondent and the



petitioner herein, in connection with non-repayment of the society loan, an Award came to be passed in A.R. No.94/2012-2013 by which, a sum of Rs.1,48,388/- was directed to pay to the third respondent/Society.

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2. The second respondent herein, had now passed the impugned order dated 22.01.2013 without any reference to the Award of the Deputy Registrar in A.R.No.94/2012-2013 and had simply stated that a sum of Rs.1,48,388/- requires to be recovered from the gratuity amount payable to the petitioner herein, who was a guarantor to the loan obtained by the fourth respondent herein. The present order cannot be sustained predominantly on two grounds.

3. Firstly, Section 13 of the Payment of Gratuity Act, protects the gratuity payable to the retiring employees and provides that such gratuity amount shall be exempted from attachment in execution of any decree or order of any Civil, Revenue or Criminal Court. The provision is self-explanatory. Thus, in case the second respondent is of the view that this present recovery pertains to an amount due under a Court Award, the same cannot be recovered from the gratuity, in view of the protection under Section 13 of the Act.

4. Secondly, the impugned order passed by the second respondent herein, does not refer to the Award of the Deputy Registrar passed in A.R.No.94/2012-2013. Moreover, there is no indication in the impugned order that the petitioner was put on prior notice before the Award was passed and hence, the order is liable to be interfered with on the grounds of violation of principles of natural justice also.

5. For all these reasons, I do not find any merits in the impugned order.

6. Accordingly, this Writ Petition stands allowed and the impugned order dated 22.01.2013 is quashed. Consequently, there shall be a direction to the respondents 2 & 3 to forthwith return the sum of Rs.1,48,388/- together with interest @ 6% p.a. from the date of recovery till the date of actual payment. In case, the third respondent is of the view that the loan amount is to be recovered from the fourth respondent or the petitioner, liberty is granted to them to execute the Award passed in A.R.No.94/2012-2013 in accordance with law. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



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To

1.The Deputy Registrar of Co-operative Societies,
Salem Circle, Salem.

2.Automobile Engineer,
Government Automobile Workshop,
Cuddalore.

3.Secretary,
Government Regional Workshop Employees'
Co-operative Thrift & Credit Society Ltd.,
Salem.

4.Government Automobile Workshop,
Cuddalore District, Cuddalore.

+1cc to Mr.D.Baskar, Advocate, S.R.No.14823
+1cc to the Government Pleader, S.R.No.15020

W.P.No.16488 of 2013

AJB (CO)
SB (22/03/2022)