



WEB COPY



W.P.No.3170 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.3170 of 2022

D.S.Shanmugha Sundara Vadivelu

... Petitioner

VS.

1.The Joint Registrar of Co-Operative Societies
(Finance and Banking) (Full Additional Charge)
Office of the Registrar of Co-operative Societies,
170 Periyar EVR High Road, Kilpauk,
Chennai 600010.

2.The Managing Director
Tamil Nadu Co-operative State Agriculture and
Rural Development Bank,
181 Luz Church Road, Alwarpet,
Chennai 600 004.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings in NaKa.59724/2020/VeOoVa.1(1) dated 29.03.2021 on the file of the 1st Respondent, quash the same and directing the 2nd respondent herein to forthwith to pay the surrender leave



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salary, with interest at 12% to the petitioner, in pursuant to his last representation dated 21.07.2020.

For Petitioner : Mr.R.Selvakumar
For R1 : Mr.T.Arunkumar
Additional Government Pleader
For R2 : Mr.A.Selvendran
Special Government Pleader

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings in NaKa.59724/2020/VeOoVa.1(1) dated 29.03.2021 on the file of the 1st respondent, quash the same and to direct the 2nd respondent herein to forthwith to pay the surrender leave salary, with interest at 12% to the petitioner, in pursuant to his last representation dated 21.07.2020.

2. According to the petitioner, the petitioner has joined as Legal Assistant (then designated as Legal-Cum-Inspecting Officer) in the 2nd respondent-Bank in the year 1975. Thereafter, he was promoted as Assistant



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Manager. Further, he was promoted as Deputy General Manager in the year 2001. Thereafter, by the Proceedings in No.Per./Pa.Ko.DGM/03, dated 28.09.2003, the disciplinary proceedings has been initiated as against the petitioner for alleging serious irregularities noticed in sanctioning of loan under NFS in Thuckalay PCARD Bank under L.A.No.203/01. Thereafter, the petitioner was arrayed as 8th accused in C.C.No.25 of 2006 on the file of the learned Judicial Magistrate No.2, Camp Court at Nagercoil in Crime No.CCIW 3 of 2003.

3. According to the petitioner, the Enquiry Officer has conducted enquiry in the said disciplinary proceedings and by his report dated 09.07.2003 stated that only the employees in the Thuckalay Primary Agricultural and Rural Development Bank alone were found to have committed the irregularity. Further, the surcharge proceedings initiated against the said employees was also quashed by this Court. However, the aforesaid criminal case in C.C.No.25 of 2006 is still pending.

4. According to the petitioner, by the Proceedings in Per/PF(D.G.M)2007, dated 30.11.2007, the 2nd respondent has allowed the



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petitioner to retire from service. Thereafter, the petitioner has made a representation dated 21.07.2020 to the 2nd respondent requesting to settle the encashment of earned leave salary along with interest at the rate of 12% per annum. The said amount has not been settled to the petitioner. Hence, he has filed the instant writ petition before this Court.

5. On perusal of the impugned order dated 29.03.2021 passed by the 1st respondent, shows that without prejudice the right, the petitioner was allowed to retire from service, subject to the outcome of the final order passed in the aforesaid disciplinary proceedings as well as in the criminal case. Further, stated that the settlement of benefits to the petitioner is concerned, the appropriate decision will be taken. But the petitioner has now challenged the said impugned proceedings in the instant writ petition. This Court is of the view that the 1st respondent has not rejected the claim of the petitioner.

6. The learned counsel appearing for the petitioner also relied upon the order of this Court in W.P.No.2805 of 2011, dated 18.01.2017, wherein this Court after relying upon the decision of this Court in ***V.Sundaresan vs. Joint Registrar of Coop. Societies, Cuddalore Region, Cuddalore District and***



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Another, reported in *[(2014) 8 MLJ 482]*, has held that the petitioner is entitled for encashment of earned leave. The aforesaid order is squarely applies to the present case on hand.

7. The learned Additional Government Pleader appearing for the 1st respondent cannot dispute the ratio laid down by this Court in the aforesaid order.

8. Therefore, this Court has come to conclusion that the petitioner is entitled for encashment of earned leave as prayed by the petitioner. In the light of the aforesaid order of this Court, this Court is inclined to pass orders as follows:-

(i) The 2nd respondent is directed to consider the petitioner's representation dated 21.07.2020 to grant the encashment of earned leave salary to him, as early as possible, within a period of twelve weeks from the date of receipt of a copy of this order, if otherwise eligible.



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(ii) It is made clear that insofar as the belated settlement of encashment of unearned leave salary is concerned, the petitioner is entitled for interest at the rate of 6% per annum or as per by laws, till the realisation of the amount.

9. With the above direction, the writ petition stands disposed of. No costs.

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Index : Yes / No
Speaking Order : Yes / No
dm



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To

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