IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.6063 OF 2021
AND
WMP.NO.6697 OF 2021

S.Thiagarajan ...Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Handloom Weavers Coop. Society Ltd.,
Co Optex Head Office, Balasundaram Building,
350, Pantheon Road, Egmore, Chennai-600 008.

2.The Regional Manger,
Tamil Nadu Handloom Weavers Coop. Society Ltd.,
Co Optex Head Office, Balasundaram Building,
350, Pantheon Road, Egmore, Chennai-600 008. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to settle the withhold amount of Rs.1,05,071.95 with interest @ 18% per annum from the date of retirement, namely 30.01.2014 till the settlement with exemplary costs.

For Petitioner : Mr.B.Radhakrishnan,
For Respondents : Mr.Jayaraman

ORDER

The Writ Petition has been filed for a Mandamus directing the respondents to settle the withhold amount of Rs.1,05,071.95 with interest @ 18% per annum from the date of retirement, namely 30.01.2014 till the settlement with exemplary costs.

2. The case of the petitioner is that he joined as Junior Assistant during July 1982 with the Co.optex Establishment and after serving for about 32 years, retired on attaining superannuation as Manager (Audit) on 31.11.2014. A memo issued against the petitioner during his service period on 29.08.2005, in which the respondents fixed the recovery for old outstanding sales dues of the regional collection office for the three

financial years, namely 1991-92; 92-93; 93-94, to the tune of Rs.1,05,071.95/- and recovery was ordered against the petitioner. The petitioner sent a letter dated 27.09.2005 requesting the first respondent / Managing Director to confirm the exact and correct outstanding dues and by letter dated 19.06.2006 the petitioner had explained the non-responsibility of the alleged credit sales dues and submitted that he has joined the Regional Collection Office on 11.07.1991 and took charge of credit sales dues of Corporation of Chennai on 23.09.1991 and relieved from that responsibility of Corporation dues collection on 14.05.1993. The petitioner during his service had made repeated requests on 29.05.2008, 20.08.2008 and 24.12.2013 to the Senior Regional Manager and Managing Director to confirm the correct outstanding dues, if any and withdrew the recovery orders issued for Rs.1,05,071.95/-.

3. The petitioner retired from service on reaching the age of superannuation on 30.11.2014 and however, to his shock and surprise, when his service benefits was settled on 30.11.2014, an amount of Rs.1,05,071.95/- was deducted towards time barred credit sales dues. The petitioner has also sent a representation on 04.01.2020 by setting out all the facts and requested to settle the said withhold amount of Rs.1,05,071.95/- with interest and since there was no response, the petitioner has filed the present writ petition.

4. The second respondent has filed a counter affidavit stating that the petitioner has challenged the recovery proceedings after a lapse of 27 years from the date of recovery proceedings and after a lapse of 7 years from the date of his retirement. The petitioner's request for verification of accounts was considered by the second respondent and vide proceedings dated 14.11.2003, he was called upon to verify the accounts and subsequently, the unrealised credit sales outstanding dues was reduced to Rs.1,621.45/-. It is further stated in the counter affidavit that the petitioner was working as Manager (Audit) at the time of his retirement and was fully aware of the deductions and being the Manager (Audit), he was responsible for all the outstanding dues and he did not raise any objection at the time of working and now he has made a stale objection with an inordinate delay of 7 years after his retirement and therefore, prayed for dismissal of the writ petition.

5. Heard the learned counsel for the parties and also perused the materials available on record.

6. According to the petitioner, since he was relieved from the Regional Collection Office on 14.05.1993 and got transferred to Head Office, he is not responsible for the time barred credit

sales dues pertaining to the period 1992-1993 till May 1993. The petitioner neither has raised any objection during his service nor challenged the recovery proceedings before his retirement. As per the Final Settlement abstract enclosed in the typed set of papers reveals that the petitioner has accepted the final settlement made as per the said statement, wherein the credit sales dues amounting to Rs.1,05,071.95/- was deducted and also further indicated that he has no further claim and will no raise any claim at a later date. The petitioner, having accepted and signed in the final settlement statement, has filed the present writ petition challenging the recovery proceedings, that too after a delay of 7 years after his retirement with regard to the alleged time barred credit sales dues pertaining to the year 1992-93.

7. Considering the inordinate delay in challenging the recovery proceedings and that no useful purpose would be served by directing the respondents to verify with their records at this distant point of time and according to the respondents, the records are not available and therefore, this Court is of the view that the writ petition is liable to be dismissed on the ground of delay and laches.

8. The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

Jvm

To

1.The Managing Director,
Tamil Nadu Handloom Weavers Coop. Society Ltd.,
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350, Pantheon Road, Egmore, Chennai-600 008.

2.The Regional Manger,
Tamil Nadu Handloom Weavers Coop. Society Ltd.,
Co Optex Head Office, Balasundaram Building,
350, Pantheon Road, Egmore, Chennai-600 008.

+1cc to M/s.Jayaraman & Associates, Advocate Sr.No.38622

W.P.No.6063 of 2021

KK(CO)
RVM(11/07/2022)