



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Twenty Fourth day of June Two Thousand Twenty Two

PRESENT

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

WMP.NO.9246 OF 2022

IN WP.NO.9494 OF 2022

A.SEKAR

[PETITIONER]

Vs

1 THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES,
TIRUVANNAMALAI REGION,
TIRUVANNAMALAI DISTRICT.

[RESPONDENTS]

2 THE MANAGEMENT
TIRUVANNAMALAI DISTRICT CONSUMER
COOPERATIVE WHOLESALE STORES,
TIRUVANNAMALAI DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the respondents to pay my retirement benefits namely, Gratuity and leave encashment totaling a sum of Rs.8,24,855/- with 12 % interest from the date of retirement till the payment (in WMP.NO.9246 OF 2022) pending disposal of the above WP.NO.9494 OF 2022.

Order : This miscellaneous petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.L.P.SHANMUGASUNDARAM, Advocate for the petitioner and of THE ADDITIONAL GOVERNMENT PLEADER on behalf of the Respondents, the court made the following order:-

This Miscellaneous Petition is filed seeking direction to the respondents to pay his retirement benefits viz., Gratuity and Leave encashment totalling a sum of Rs.8,24,855/- with 12 percentage interest from the date of retirement till the payment pending disposal of the above writ petition.



2. According to the learned counsel appearing for the petitioner, in the light of the catena of judgements passed by the Hon'ble Supreme Court and this Court, the petitioner is entitled for retirement benefits viz., Gratuity and Leave encashment. The learned counsel for the petitioner has further submitted that surcharge proceedings has been initiated against the petitioner under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. The Surcharge Officer/Deputy Registrar of Co-operative Societies passed the order dated 29.12.2017 vide Surcharge Order No.4/2017-2018. Aggrieved by the said order, the petitioner preferred an appeal in C.T.A.No.19 of 2019 before the Cooperative Tribunal / Principal District Judge, Tiruvannamalai. The said appeal was allowed on 09.09.2021. Therefore, the petitioner is entitled for his retirement benefits.

3. On the other hand, the learned Additional Government Pleader appearing for the respondents submitted that in the light of the decision of the Hon'ble Division Bench of this Court report in **2020(1) CWC 42** in the case of **State of Tamil Nadu vs. Mahalingam**, the petitioner is entitled only for encashment of Earned Leave.

4. Considering the facts and circumstances of the case and in view of the decision of the Hon'ble Division Bench of this Court (**Mahalingams's case**) cited supra, this Court directs the respondents to pay the leave encashment amount to the petitioner as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. Insofar as payment of gratuity amount to the petitioner is concerned, the same can be decided at the time of final disposal of the writ petition.

5. With the above directions, this Miscellaneous Petition is closed.

6. Registry is directed to list the writ petition on 19.07.2022 along with W.P.Nos.9671 and 9219 of 2022 under the caption 'for final disposal'.

-sd/-

24/06/2022

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES,
TIRUVANNAMALAI REGION,
TIRUVANNAMALAI DISTRICT.



2 THE MANAGEMENT,
TIRUVANNAMALAI DISTRICT CONSUMER
COOPERATIVE WHOLESALE STORES,
TIRUVANNAMALAI DISTRICT.

COPY TO

THE COOPERATIVE TRIBUNAL /
PRINCIPAL DISTRICT JUDGE,
TIRUVANNAMALAI.

C.C. to M/S.L.P.SHANMUGASUNDARAM, Advocate SR.NO.4957/2022

Order
in
WMP.NO.9246 OF 2022

IN WP.NO.9494 OF 2022

Date :24/06/2022

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
DPK(30/06/2022)