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W.P.No.12377 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.12377 of 2022

S.Velumani

... Petitioner

VS.

1. The Registrar of Cooperative Societies,
Kilpauk,
Chennai – 600 010.

2. The Deputy Registrar of Cooperative Societies,
Kancheepuram Region,
Vandavasi Salai,
Kancheepuram – 631 501.

3. The Deputy Registrar/Managing Director,
Big Kancheepuram Town Cooperative Bank Ltd.,
90-91, Annai Indira Gandhi Salai,
Kancheepuram & District – 631 502.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents to settle the terminal benefits viz., Gratuity, Encashment of Earned Leave, arrears of salary and increment arrears with effect from 01.05.2017 to the Petitioner, along with interest for the delay in payment, by considering the representation submitted by the Petitioner dated 04.11.2019, within a time



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frame to be fixed by this Court.

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For Petitioner : Mr.S.Nedunchezhiyan
For R1 and R3 : Mr.T.Arunkumar
Additional Government Pleader
For R3 : Mr. C.Selvaraj

ORDER

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to settle the terminal benefits viz., Gratuity, Encashment of Earned Leave, arrears of salary and increment arrears with effect from 01.05.2017 to the petitioner, along with interest for the delay in payment, by considering the representation submitted by the petitioner dated 04.11.2019, within a time frame to be fixed by this Court.

2. According to the petitioner, he was appointed as Assistant in the 3rd respondent/Bank and he was promoted to the post of Manager on 15.05.2015. Thereafter, the criminal case in Crime No.2 of 2017 has been registered as against the petitioner for misappropriation of funds of the 3rd respondent/Bank by bogus billing and the same is pending in C.C.No.198 of 2017 on the file of the Judicial Magistrate Court, Kancheepuram. The



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disciplinary proceedings also initiated as against the petitioner for the charges levelled against him. According to the petitioner, the 2nd respondent has also passed the Surcharge Order in Tha.Thee.No.5/2016-17/A.3, dated 19.07.2017 under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, as against the petitioner. The said surcharge proceedings also pending against the petitioner before the learned District Judge-II, Kancheepuram.

3. In the meantime, the petitioner has made representations dated 16.10.2019, 04.11.2019 and 15.11.2019 to the 2nd respondent to settle his terminal benefits viz., Gratuity, Encashment of Earned Leave and arrears of salary. The said amount has not been settled by the 2nd respondent. Hence, he has filed the instant writ petition before this Court for the aforesaid prayer.

4. The learned counsel appearing for the 3rd respondent/Bank submitted that the 3rd respondent has settled the pay arrears to the petitioner. Insofar as the other relief sought for by the petitioner for gratuity and encashment of earned leave are concerned, he made a letter dated 12.10.2020 to the 3rd respondent requesting to disburse the pay arrears alone and has consented to recover the surcharge recovery amount due with interest, after



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the disposal of the civil miscellaneous appeal in C.M.A.No.7 of 2017 pending before the District Court, Kancheepuram, from the gratuity and encashment of earned leave.

5. Therefore, according to the 3rd respondent/Bank, the petitioner already availed the pay arrears citing his son's marriage to be held on 04.11.2020 and accordingly, a sum of Rs.3,99,302/- was sanctioned and paid to the petitioner on 14.10.2020. However, the letter dated 12.10.2020 made by the petitioner, has not been mentioned in the affidavit filed in the instant writ petition.

6. In the light of the above said submission made by the learned counsel for the 3rd respondent/Bank, this Court is not inclined to accept the contention of the petitioner for payment of gratuity as well as encashment of earned leave and arrears of salary to him and there is no merit in the instant writ petition.

7. Accordingly, the writ petition stands dismissed. It is open to the



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petitioner to make a request before the authority concerned for withdrawal of the said amount, after disposal of the civil miscellaneous appeal in C.M.A.No.7 of 2017 pending before the District Court, Kancheepuram. No costs.

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Index : Yes / No

Speaking Order : Yes / No

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D.KRISHNAKUMAR. J

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