



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.27738 of 2016
and W.M.P.No.2107 of 2021
(Through Video Conference)

K.Ramesh

..Petitioner

-Vs-

1. The Joint Registrar of Cooperative Societies,
Krishnagiri.

2. S.495, Krishnagiri Taluk Agricultural Producers
Cooperative Marketing Society Ltd.,
Rep. by its Managing Director - Deputy Registrar,
Pochampalli.

..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 on the file of the first respondent relating to the impugned orders dated 21.07.2016 bearing Ref.No.Na.Ka.337/2015/Sa.Pa., & Na.Ka.337/2015 Sa.PA.(2) and quash the same and consequently direct the second respondents to release the Gratuity, Earned Leave Salary, arrears salary and other retiral benefits due to the petitioner pursuant to his attaining his age of superannuation with effect from 31.12.2015 and the subsistence allowance to the petitioner.

For Petitioner : Mr.R.Saravanan,
For Mr.T.Saikrishnan

For R-1 : Mr.P.Ganesan,
Additional Government Pleader

For R-2 : Mr.L.P.Shanmugasundaram

O R D E R

The petitioner herein, who was employed as a Clerk in the second respondent Co-operative Society, was placed under



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suspension on the verge of his retirement on the ground that he was involved in a criminal case bearing C.C.Nos.254 to 256 of 2003. Admittedly, no surcharge proceedings or any other departmental enquiry was initiated against the petitioner by the second respondent herein.

2. The issue as to whether the first respondent is entitled to withhold the Gratuity amount due to a retired Government employee came up for consideration before this Court in the case of Ramasamy and another vs. the Managing Director and another in W.P.(MD) Nos.15875 and 15926 of 2013 and by order dated 2.12.2013, wherein this Court held that such withholding of retirement benefits is 'impermissible under law'. The relevant portion of the order reads thus:-

"3. It is well known fact that the amount of gratuity and leave encashment due to the petitioners cannot be denied to the petitioners, even assuming that the petitioners are found guilty. Similarly, leave encashment is a right, that is available to the petitioners for the period, they had worked. In such view of the matter, this Court is inclined to direct the respondents to make the payment of gratuity and leave encashment, amount due to the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order."

3. The aforesaid extract is self-explanatory. When the only reason assigned by the respondents for withholding the retirement benefits is due to the petitioner's involvement in the criminal case, the same cannot be justifiable in view of the aforesaid decision of this Court. Accordingly, the impugned orders bearing Ref.No.Na.Ka.337/2015/Sa.Pa., & Na.Ka.337/2015 Sa.PA.(2) dated 21.07.2016 is set aside. Accordingly, there shall be a direction to the respondents herein to forthwith pass appropriate orders for the disbursement of the retirement benefits including the Gratuity, Earned Leave Salary and attendant benefits, within a period of four(04) weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands Allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



To:

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The Joint Registrar of Cooperative Societies,
Krishnagiri.

+1 CC to Mr.T.Saikrishnan, Advocate sr 749
+1 CC to The Government Pleader sr 1145.

W.P.No.27738 of 2016

RSI (CO)
SP(27/01/2022)