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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16605 of 2020
and W.M.P.No.20597 of 2020

A.Sundandranathan

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies
Gobichettipalayam,
Erode District.

2.The Management,
K0544, Gobichettipalayam Agricultural
Producers, Co-operative Marketing Society Ltd.,
Gobichettipalayam, Erode District.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2nd respondent made in Na.Ka.No.143/2014/A1 dated 12.08.2020, to quash the same and to consequently, direct the respondents 1 and 2 to forthwith settle the terminal benefits including subsistence allowance as applicable with interest till the date of payment.

For Petitioner: Mr.L.Chandrakumar

For R1 : Mrs.S.Anitha
Special Government Pleader

For R2 : Mr.L.P.Shanmugasundaram

O R D E R

The relief sought for in the writ petition is for Certiorarified Mandamus, calling for the records relating to the order of the 2nd respondent made in Na.Ka.No.143/2014/A1 dated 12.08.2020, to quash the same and to consequently, direct the respondents 1 and 2 to forthwith settle the terminal benefits including subsistence allowance as applicable with interest till the date of payment.



2. Brief facts of the case:

(a). The petitioner was superannuated from the post of Secretary under the 2nd respondent Marketing Society on 30.04.2014. However the order of superannuation came to be issued only on 19.12.2017, in view of the initiation of disciplinary proceedings against him.

(b). While the petitioner was working as Secretary-in-charge of the 2nd respondent's Society between 2008-2011, surcharge proceedings came to be initiated by the 1st respondent in Na.Ka.No.8036/2011/Sa.Pa, dated 19.04.2012 against the petitioner and five others. Aggrieved over the said proceedings, the petitioner has preferred C.M.A.No.50 of 2013 before the Co-operative Tribunal, Erode and the same was allowed by setting aside the impugned order and the trial Court has directed the respondent to pay the cost. However, the 2nd respondent filed W.P.No.1469 of 2016 and the same is pending. The actual date of retirement falls on 30.04.2014 and in view of an irregular suspension made by the Managing Director vide Na.Ka.No.143/2014 A1 dated 23.04.2014, the order of retirement was issued on 19.12.2017. In view of proceedings, none of the legitimate dues, such as subsistence allowance and other accrued dues thereto were omitted to be disbursed for the period between 23.04.2014 and 19.12.2017 to the petitioner. Thereafter, the petitioner has filed a petition in W.P.No.20114/2019 and by an order dated 07.11.2019 this Court directed the respondents to consider the claim of the petitioner for settlement and disbursement of Gratuity amount and other dues within a period of six weeks. Even though, they have settled the gratuity amount on 26.02.2020. In spite of several representations made by the petitioner on 14.10.2016, 07.03.2018 & 03.03.2020 for getting other benefits, the second respondent has passed impugned order vide Na.Ka.No.143/2014/ A1 dated 12.08.2020 by stating that rejecting the claim of subsistence allowance stating Bye-law No.31(5) disentitles the petitioner. However, the other benefits consequent upon superannuation yet remains to be settled. Hence, the writ petition.

3. The learned counsel for the petitioner would submit that the petitioner was superannuated from the post of Secretary under the 2nd respondent Marketing Society on 30.04.2014, however the order of superannuation came to be issued only on 19.12.2017, in view of his suspension made on 23.04.2014. Since, the subsistence allowance and other accrued dues thereto were omitted to be disbursed for the period between 23.04.2014 and 19.12.2017, the petitioner has filed a petition in W.P.No.20114 of 2019 to settle his terminal benefits and this Court has given direction to consider the claim of the petitioner, eventhough, gratuity amount alone was settled on 26.02.2020 and other



benefits were not settled by the respondents. Therefore, he seeks for the terminal benefits including the subsistence allowance as applicable with interest till the date of payment.

4.The learned counsel for the respondents would submit that the subsistence allowance has been paid till 30.04.2014 i.e., on the date of the superannuation of the petitioner and subsequently, as per the rules, he is not entitled for the subsistence allowance for the extended period of suspension after his superannuation and therefore, there is no further adjudication required in this petition.

5.Considering the above facts and circumstances of the case and considering the aforesaid submissions made by the learned counsels for the respondents, this Court is inclined to pass the following order:

The writ petitioner is directed to send his representation to the first respondent along with this order copy within a period of two weeks from the date of receipt of a copy of this order and on such representation received, the first respondent is directed to consider such representation to settle the terminal benefits in accordance with law and to pay the interest for the belated payment of substance allowance at the rate of 6% per annum from the date of the superannuation, till the date of the amount has been settled by them, within a period of eight weeks thereafter.

6.With the above observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Dua/krk

To

1.The Deputy Registrar of Co-operative Societies
Gobichettipalayam,
Erode District.



2.The Management,
K0544, Gobichettipalayam Agricultural
Producers, Co-operative Marketing Society Ltd.,
Gobichettipalayam, Erode District.

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+1cc to the Government Pleader, S.R.No.23035

W.P.No.16605 of 2020

BR (CO)
SB (30/05/2022)