

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.17526 of 2020

S.Tholkappian

.. Petitioner

vs.

1. The Principal Secretary,
Health & Family Welfare Department,
Government of Tamil Nadu,
Fort St.George, Chennai-9.
 2. The Director,
Public Health & Preventive Medicine Department,
Anna Salai, Chennai-600 006.
 3. The Director,
Tamil Nadu State Health Transport Department,
Nawas Garden, Race Course Interior Road,
Guindy, Chennai-600 032.
 4. The Automobile Engineer (In-Charge),
Regional Workshop (Health),
Nawas Garden, Race Course Interior Road,
Guindy, Chennai-600 032.
 5. The President,
Public Health & Preventive Medicine Directorate,
Employees Thrift and Cooperative Society Ltd.,
Anna Salai, Chennai-600 006.
 - 6.The Secretary,
Public Health & Preventive Medicine Directorate,
Employees Thrift and Cooperative Society Ltd.,
Anna Salai, Chennai-600 006.
 7. S.Ramesh Kumar
 8. The Principal Secretary,
Finance Department, Government of Tamil Nadu,
Secretariat, Chennai-9.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for records relating to communications vide Na.Ka.No.924/A/2018 dated 26.04.2019, Na.Ka.No.924/A/2018 dated 24.01.2020 and Na.Ka.No.924/A/2018 dated 13.03.2020 issued by the fourth respondent and quash the same and consequently, to direct the official respondents to disburse the retiral benefits of the petitioner including encashment of Earned and Unearned Leave on Private Affairs, Provident Fund, Cooperative Society Deposit Amount, Contributory Pension Scheme fund with interest @ 18% per annum along with all other consequential benefits.

For Petitioner : Ms.S.M.Kothai Muthu Meenal

For Respondents: Mr.T.Arunkumar
Additional Government Pleader
for R1 to R4 & R8

Mr.M.R.Murugan for R5 & R6

ORDER

The petitioner, challenging the impugned communications of the fourth respondent dated 26.04.2019, 24.01.2020 and 13.03.2020, directing the petitioner to clear the loan dues of the seventh respondent and to produce "No Due Certificate", has filed the present writ petition.

2. The petitioner availed Cooperative Society loan and the seventh respondent signed as a surety for him on a mutual understanding that the petitioner would be surety for the seventh respondent's Cooperative Society loan. The petitioner had cleared his loan amount from and out of his salary i.e., before his retirement, but the seventh respondent had committed default in repayment in view of contemplation of vigilance enquiry against him and he was placed under suspension. While that being so, the official respondents, vide impugned communications, demanding the petitioner to clear the loan dues of the seventh respondent and also to produce "No Due Certificate" and challenging the same, the petitioner has filed the present writ petition.

3. Mr.T.Arunkumar, learned Additional Government Pleader for the respondents 1 to 4 & 8 has relied upon para 14 of the counter affidavit filed by the third respondent and the same is extracted hereunder:

"14.The above details were communicated and

submitted to the Government vide this office R.No.7583/C5/2019 dated 13.01.2021. It is brought to kind notice of the Hon'ble Court that Thiru S.Tholkappian has cleared his society loan and there is no outstanding amount to be recovered from him, whereas Thiru S.Rameshkumar is alone fully responsible to repay the balance amount of Rs.6,49,894/- for the loan availed by him and it would be recovered from his retirement / pensionary benefits due to him after pending charges are cleared. He had also agreed and given an undertaking to this Department on 06.12.2021 to settle the whole pending amount due to the society on sanction of his retirement benefits. However both the persons in this case are held responsible as per the award dated 20.08.2019 of the Court of the Cooperative Sub-Registrar (Arbitrator). In the above circumstances, it is submitted that necessary action will be effected as per the judgment order of Hon'ble Court."

In the light of the aforesaid undertaking given by the seventh respondent, the learned Additional Government Pleader prays for appropriate orders.

4. In the light of the undertaking given by the seventh respondent as stated above, there is no legal impediment for the respondents to consider the request of the petitioner for payment of terminal benefits, if he is otherwise eligible and appropriate orders may be passed as expeditiously as possible within a period of twelve weeks from the date of receipt of a copy of this order. It is also made clear that if any default in payment committed by the seventh respondent, it is always open to the respondents 1 to 4 to proceed with the surety action against the petitioner and to that extent, the petitioner shall also file an undertaking affidavit before the authorities concerned.

5. The Writ Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Principal Secretary,
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6. The Secretary,
Public Health & Preventive Medicine Directorate,
Employees Thrift and Cooperative Society Ltd.,
Anna Salai, Chennai-600 006.

+1cc to Mr.K.Nithyashree, Advocate, S.R.No.40399

+1cc to Mr.M.R.Murugan, Advocate, S.R.No.40219

+1cc to the Government Pleader, S.R.No.40702

W.P.No.17526 of 2020

GJ(CO)
CT/20/07/2022