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W.P. No.18307 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.18307 of 2020 and
W.M.P.No.22693 of 2020

S.Velayutham

... Petitioner

Vs.

1.The Regional Joint Registrar of
Co-operative Societies,
Thiruvarur Region,
District Collector Office Complex,
Thiruvarur 610 001.

2.D.539 Moovarkottai Primary Agricultural
Co-operative Bank, Moovarkottai Post,
Vaduvur Via. Mannarguid Taluk,
Thiruvarur District – 614 019.
Rep. By its President

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to disburse the salary due to the petitioner for the periods from April 2017 continuously up to October 2020 besides pay future salary.

For Petitioner : Mr.T.S.Rajamohan

For Respondents : Mr.C.Kathiravan
Special Government Pleader (for R1)
: Mr.R.Bala Ramesh
Standing Counsel (for R2)



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ORDER

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2. The petitioner claimed to have been working as Secretary at the 2nd respondent Society. Though he was initially appointed as Clerk in 1995 at the 2nd respondent Society, after sometime he was removed from service in the year 1999 as against which he approached the Labour Court and raised an industrial dispute, ultimately award was passed in favour of the petitioner, reinstatement was directed to be made in favour of the petitioner by the 2nd respondent Society by treating the petitioner as daily wager.

3. Thereafter by order dated 21.08.2008 the petitioner had been brought under time scale of pay of Rs.4375 – 125 – 550 – 700 – 175 – 770, the same has been, according to the petitioner, implemented by the 2nd respondent Society with effect from 01.12.2012. Though he received the pay, as per the said time scale of pay, under which he has been



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brought in after some time, the Society seems to have claimed that there was sum of Rs.2,85,336/- was excessively paid to the petitioner which has to be recovered from the petitioner as against which the petitioner has approached this Court by filing a writ petition in W.P.No.22493 of 2018 where order was passed by this Court on 11.09.2018 under which the recovery amount was directed to be repaid to the petitioner and it was paid to the petitioner by 7 installments from 20.02.2019 till 29.02.2020. Thereafter, according to the petitioner, the present grievance is from 01.04.2017 till 31.07.2014, 40 months there was no salary paid to the petitioner. Therefore, to get such salary the petitioner has given a representation on 16.07.2020 and the same also was not considered and according to the petitioner when filing of this writ petition or filing the said representation, his salary due was more than Rs.5,41,982/-, it was not paid to the petitioner and in order to get the salary arrears, the petitioner has approached this Court by filing the present writ petition.

4. Heard Mr.T.S.Rajmohan, learned counsel appearing for the petitioner who would submit that, it is not the first time the salary denial has come from the respondents already the petitioner faced the similar difficulty with the 2nd respondent Society as salary was not paid for



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previous years, for the said grievance also the petitioner already approached this Court and filed a writ petition in W.P.No.22493 of 2018 where orders were passed by this Court dated 11.09.2018, thereafter the salary recovered from the petitioner as alleged excess payment also was directed to be repaid and that was also repaid to the petitioner and now this is the second time from 2017 to 2020 there are about three years and more the petitioner has not been paid the salary and even thereafter since there has been no payment of salary and the petitioner has continuously working, the learned counsel for the petitioner seeks indulgence of this Court to issue a direction by way of mandamus.

5. Heard Mr.C.Kathiravan, learned Special Government Pleader for the 1st respondent and Mr.R.Bala Ramesh, learned Standing Counsel appearing for the 2nd respondent.

6. By relying upon the averment made in the counter affidavit they would submit that, if at all any grievance is there on the part of the petitioner against the respondents, first he must approach the Revisional Authority i.e. the Registrar or Joint Registrar of Co-operative Societies under the power vesting in them under Section 153 of the Tamil Nadu



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Cooperative Societies Act. Without exhausting such remedy the petitioner since straight away approached this Court, this writ petition on that ground is liable to be dismissed.

7. The learned Standing Counsel for the 2nd respondent Society would submit that, insofar as the claim made by the petitioner is concerned, his claim itself is that he was only a temporary or daily wage employee and that was the order passed by the Labour Court based on which he has been appointed as temporary employee on daily wage basis, there is no question of any monthly salary being paid to him. Anyhow the petitioner if at all has any due, when the same is offered to the petitioner, the petitioner has not received the same by putting the signature in the voucher and that is the difficulty the 2nd respondent was facing, therefore the salary sometime could not have been paid to the petitioner in time.

8. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.



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9. Whether the petitioner is a temporary employee or daily rated wage employee or permanent employee that is not the issue here to be decided. It is a fact that the petitioner has been working at the 2nd respondent Society either as a Clerk or as a Secretary, whatever be the designation and whatever be the nature of the job since he has been brought under regular time of scale of pay of that work for which proceedings have been issued for the Registrar as claimed by the petitioner, based on which, the salary has already been paid upto 2017 and that was also done only pursuant to the orders passed by this Court in the earlier round of litigation. Subsequently, if the same trend continues with such a flimsy reason as projected by the 2nd respondent as stated supra that the petitioner was not come forward to sign the voucher, it is open to the 2nd respondent to deposit his salary to his bank account for which the bank account of the petitioner can be obtained. Without resorting such method to disburse the salary in a transparency method to the petitioner, the respondents especially the 2nd respondent cannot state all these flimsy reasons for not paying the salary to the petitioner.



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10. In that view of the matter, this Court is inclined to dispose of

this writ petition with the following orders:

That there shall be a direction to the respondents to consider the representation of the petitioner dated 16.07.2020 and pass orders thereon under which the salary payable to the petitioner from 01.04.2017 till date has to be verified and pay the same if the said salary is due/payable to the petitioner by transferring the said amount in the bank account of the petitioner for which the bank account shall be furnished by the petitioner within one week from the date of receipt of a copy of this order and thereafter within four weeks time such salary shall be paid by way of transferring the amount from the 2nd respondent Society to the SB account or the other account of the petitioner to be furnished in this regard within a period of four weeks thereafter.

11. With this direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

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R.SURESH KUMAR, J.

Sgl

To

The Regional Joint Registrar of
Co-operative Societies,
Thiruvarur Region,
District Collector Office Complex,
Thiruvarur 610 001.

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