



W.A.No.2623 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No. 2623 of 2022 and
C.M.P.No.20868 of 2022

1. The Secretary,
Government of Tamil Nadu,
Co-operation, Food and Consumer Protection Department,
Fort St. George,
Chennai-9.

2. The Registrar of Co-operative Societies,
No.170, Periyar E.V.R.Road,
Kilpauk, Chennai-10.

.. Appellants

-VS-

Mr.F.X.Fernando

.... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 11.02.2019 passed in W.P.No.16339 of 2009 and allow the above Writ Appeal.

For Appellants

: Ms.V.Yamuna Devi
Special Government Pleader



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J U D G M E N T

S.VAIDYANATHAN, J.

and

MOHAMMED SHAFFIQ, J.

This Writ Appeal has been directed against the order of the learned Single Judge dated 11.02.2019 made in W.P.No.16339 of 2009, in directing the 1st Appellant to pay the interest @ 9% per annum for the period from 13.11.2006 (the date on which writ petitioner was permitted to retire) till 28.01.2009 (the date on which payment towards House Rent Allowance and City Compensatory Allowance was made), within a period of four weeks from the date of receipt of a copy of the order.

2. The learned Special Government Pleader appearing for the Appellants submitted that as per Rule 53 (5) of the Fundamental Rules, only House Rent Allowance and City Compensatory Allowance have to be paid from 30.11.1998 (the date on which the Writ Petitioner attained the age of superannuation) till 13.11.2006 (the date on which he was permitted to retire from service) . For the sake of convenience the Rule 53 (5) is extracted hereunder:

“53(5) If a Government Servant under suspension continues to be under suspension after the date of superannuation in view of pending disciplinary proceedings against him, and is fully exonerated from the charges against him later, he shall be paid dearness allowance as admissible on normal superannuation and house rent allowance and city compensatory allowance as



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admissible prior to the date of superannuation for the period from the date subsequent to the date of superannuation till the date on which final orders on the disciplinary proceedings are issued.”

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3. We are not inclined to accept the contention of the learned counsel for the Appellant for the reason that the Writ petitioner was under suspension from 1998-2006 and no punishment was inflicted against him and he was also permitted to retire from service vide G.O.3(D) No.21, Co-operation, Food and Consumer Protection Department dated 13.11.2006 and on representation of the Writ Petitioner dated 16.05.2007, the 1st Appellant vide G.O.(D) No.121, Co-operation, Food and Consumer Protection Department dated 9.4.2008 fixed the House Rent Allowance and City Compensatory Allowance and the same was also paid vide Cheque No.011860 dated 28.01.2009. When the Writ Petitioner was permitted to retire as early as on 13.11.2006 after exonerating from the charges, the Appellants ought to have paid the amount within the period of two years, but the amount was paid only after two years i.e., on 28.01.2009. Therefore, we do not find any infirmity or illegality in the order passed by the learned Single Judge.

4. In view of the same, this Writ Appeal stands dismissed. The Appellants are directed to pay interest as ordered by the learned Single Judge, within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently,



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MOHAMMED SHAFFIQ, J.

arr

connected Miscellaneous Petition is closed.

Index: Yes / No
Internet: Yes / No
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[S.V.N., J.] [M.S.Q., J.]
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