



W.P.No.33556 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.33556 of 2018

R.Vinayagam

... Petitioner

Vs

1.The Deputy Registrar of
Co-operative Society,
MGM Nagar, Kakalur Salai,
Thiruvallur.

2.The President,
Poonamallee Co-operative
Agriculture Society,
Bye Pass Road, Poonamallee,
Chennai – 56.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to pay Provident Fund, Gratuity, Earn Leave Encashment and other monetary benefits with interest for belated payment at the rate of 18% p.a. within the time fixed by this Court.

For Petitioners : Mr.B.Manoharan

For Respondent : Mr.J.C.Durairaj
Additional Government Pleader for R1



W.P.No.33556 of 2018

: Mrs.T.P.Savitha for R2

ORDER

WEB COPY The prayer sought for herein is for a writ of mandamus directing the respondents to pay Provident Fund, Gratuity, Earn Leave Encashment and other monetary benefits with interest for belated payment at the rate of 18% p.a.

2. The petitioner was working as an employee of the 2nd respondent Society from 1973. Thereafter at one point of time, he was removed from service and after his pursuance and legal battle, he has been reinstated on 01.01.2010, thereafter he retired on superannuation on 30.06.2013

3. By communication dated 29.06.2013 the 2nd respondent Society permitted the petitioner to retire on superannuation on 30.06.2013 which reads thus:

“பூவிருந்தவல்லி தொடக்க வேளாண்மை கூட்டுறவு கடன் சங்கத்தில் எழுத்தராக பணிபுரிந்த திரு.ஆர்.விநாயகம் வயது முதிர்வு காரணமாக 30.06.13 பிற்பகல் முதல் பணியிலிருந்து ஓய்வு பெற அனுமதித்து ஆணை வழங்கப்படுகிறது.”



W.P.No.33556 of 2018

4. After retirement, the petitioner was not paid the retirement benefits and his salary itself was not properly fixed, therefore he has already approached this Court by filing a writ petition in W.P.No.13303 of 2013. In that writ petition, a learned Judge of this Court passed the following order:

“3.While disposing of the said Writ Petition, the Award was modified in respect of the back wages by ordering 25% of the back wages with continuity of service. Thereafter, the petitioner made a request for fixation of payment of the monetary benefits. The second respondent has sent a letter to the first respondent on 23.06.2011 seeking permission for fixation of time scale and payment of 25% of the back wages. As no orders are passed on the representation of the petitioner, the petitioner has filed the present writ petition.

4.Taking into consideration of the pendency of the proposal sent by the second respondent to the first respondent as well as the representation of the petitioner dated 07.08.2012, the first respondent is directed to pass appropriate orders on the same on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

5.With the above direction, the Writ Petition is disposed of. No costs.”

5. Despite this order was passed sometime in 2014 and the petitioner retired from service earlier in 2013, till the filing of this writ petition in the year 2018 no action was forthcoming from the respondents



W.P.No.33556 of 2018

as his salary was not fixed and the pensionary benefits have not been paid.

Therefore, he filed the present writ petition with the aforestated prayer.

6. Heard Mr.B.Manoharan, learned counsel appearing for the petitioner who having reiterated the aforestated would submit that, the earlier direction given by this Court in the writ petition in W.P.No.13303 of 2013 dated 25.11.2014 to fix the salary of the petitioner so far has not been complied with by the 1st respondent and as a sequel the 2nd respondent Society also has not come forward to settle the retirement benefits payable to the petitioner. Therefore, a suitable direction to that effect may be given to both the respondents, he contended.

7. Heard Mr.J.C.Durairaj, learned Additional Government Pleader appearing for the 1st respondent who would submit that, based on the earlier order passed by this Court dated 25.11.2014 in the other writ petition i.e. W.P.No.13303 of 2013, the 1st respondent would act upon to fix the salary of the petitioner within a time frame that may be stipulated by this Court and based on which, the 2nd respondent Society will act upon to disburse the arrears payable to the petitioner by way of retirement and pensionary benefits to the petitioner.



W.P.No.33556 of 2018

8. However, Ms.T.P.Savitha, learned Standing Counsel appearing for the 2nd respondent Society submitted that, after the dismissal order passed subsequently only writ petition earlier was filed where a direction was given pursuant to which the backwages having been calculated was paid to the extent of Rs.2.43 lakhs in four installments and subsequently when the petitioner was reinstated, it was the further direction after retirement of the petitioner in 2013/2014 that the salary of the petitioner to be refixed and that exercise since has to be undertaken by the 1st respondent once the salary is fixed on the petitioner by the 1st respondent based on which the 2nd respondent Society would calculate the arrears payable to the petitioner and accordingly would pay the same to the petitioner within a time frame.

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

10. Insofar as the long years of service rendered by the petitioner from 1973 to 2009 with certain break it was also considered by the Court



W.P.No.33556 of 2018

of law and ultimately he was reinstated in 2010 and he worked till 2013 and retired on superannuation. Hence the entire service shall be taken into account for the purpose of fixing the salary as directed by this Court in the earlier round of litigation.

11. Hence there shall be a direction to the 1st respondent who shall act upon and fix the salary within a period of eight weeks from the date of receipt of a copy of this order and on receipt of such an order fixing the salary the 2nd respondent Society shall act upon and calculate the arrears of pay and other retirement benefits payable to the petitioner accordingly and the same shall be paid by the Society to the petitioner within a period of four weeks thereafter. The needful as indicated above shall be undertaken by the respondents within the time frame stipulated therein.

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

24.08.2022

Index : Yes / No

Speaking Order : Yes / No

Sgl



W.P.No.33556 of 2018

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W.P.No.33556 of 2018

R. SURESH KUMAR, J.

Sgl

W.P.No.33556 of 2018

24.08.2022