



W.P.(MD).No.5330 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.5330 of 2020

1.R.Rethnam (Died) ... Petitioner

2.Ganajothi ... Proposed Petitioner

(Petitioner impleaded vide Court order dated 17.12.2021 in W.M.P.(MD).No. 17956 of 2021 in W.P.(MD).No.5330 of 2020)

Vs.

1.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar,
Ramanathapuram,
Ramanathapuram District.

2.The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar,
Ramanathapuram,
Ramanathapuram District.

3.The President,
Q.1271, Vaigai Primary Agricultural
Co-operative Credit Society at Kalari,
Thiruppullani,
Ramanathapuram District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to settle the petitioner's retirement benefit of Rs.3,86,900/- towards gratuity,



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Rs.1,98,794/- towards earned leave salary and Rs.300/- towards security deposit with reasonable interest within time frame to be fixed by this Court.

For Petitioner : Mr.S.Kumar
For R-1 and R-2 : Mr.M.Ramesh,
Government Advocate.
For R-3 : Mr.S.Seenivasagam

ORDER

One R.Rethnam, while serving as a Senior Clerk and holding the post of Secretary (Incharge), retired from service on 31.03.2017 from the third respondent Society. His gratuity and other retirement benefits were not settled to him in time, which prompted him to file the present Writ Petition, seeking for a direction to the respondents to settle all the dues payable to him. Pending the Writ Petition, he died on 12.12.2021 and he is now substituted by his legal heirs.

2. The learned counsel for the third respondent herein submitted that during the service of the deceased employee, the audit was not conducted by the Department and owing to the same, they were not able to ascertain as to whether any amount was due to be recovered from the deceased employee and therefore, the retirement benefits were not disbursed.



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3. The learned Government Advocate appearing for the first and second respondents submitted that it is the duty of the third respondent to settle the retirement benefits and therefore, they have no role in it.

4. The only impediment which the third respondent has expressed is that since the mandatory audit has not been conducted by the Department for the years 2010 – 2012, they are unable to disburse the retirement benefits.

5. I am not in agreement with such a submission for two reasons. Merely because the audit objections have not been conducted, the third respondent Society cannot indefinitely withhold the retirement benefits payable to the retired employee in anticipation of an audit to be conducted for the years 2010-2012. Secondly, the employee has now expired. Even assuming that there is an audit objection in future, the third respondent Society will not be in a position to give an opportunity to the deceased employee to put forth his objections to the audit report for the purpose of recovery, if any. The moment such an employee has died, any further proceedings in connection with his service shall abate and therefore, the respondents will not be in a position to legally recover any dues in this regard.



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6. In view of the above observations, the withholding of the retirement benefits is *prima facie* illegal and therefore, the petitioner herein, who is the legal heir of the deceased employee, would be entitled for payment of interest on the dues.

7. In the light of the above findings and observations, there shall be a direction to the third respondent herein to forthwith disburse the entire Death Cum Retirement Gratuity benefits, together with interest at the rate of 6% per annum from 31.03.2017 till the date of actual disbursement, within a period of four (4) weeks from the date of receipt of a copy of this order.

8. This Writ Petition stands allowed accordingly. There shall be no order as to costs.

26.08.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

1.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar,
Ramanathapuram, Ramanathapuram District.

2.The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar,
Ramanathapuram, Ramanathapuram District.



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M.S.RAMESH, J.

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