



W.P.(MD)No.6649 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6649 of 2020

Duraisamy

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
O/o. the Co-operative Societies,
Thanjavur Region,
Thanjavur.

2.The Secretary
T.344, Adirampattinam,
Co-operative Urban Credit Society Ltd.,
Adirampattinam,
Pattukkottai Taluk,
Thanjavur District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the impugned order passed by the first respondent by its proceeding in Na.Ka.No. 6853/2018/Sa.Pa, dated 18.07.2019 and quash the same.



W.P.(MD)No.6649 of 2020

For Petitioner : Mr.S.Deenadhayalan

For Respondents : Mr.A.Baskaran,
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order passed by the first respondent by its proceeding in Na.Ka.No. 6853/2018/Sa.Pa, dated 18.07.2019.

2. The learned counsel for the petitioner submitted that the petitioner joined the second respondent Society as Accountant through Employment Exchange on 01.03.1982. Thereafter, promoted as Manager in the Society on 01.07.1992. Later, in the year 2006, the second respondent Bank was converted into a Co-operative Society and further, promoted as Secretary on 08.06.2010 and then retired from service on attaining the age of superannuation on 31.01.2011. While he was in service, a new revised pay scale was implemented as per circular, dated



W.P.(MD)No.6649 of 2020

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07.12.2010 issued by the Registrar of Co-operative Societies, Chennai and new pay fixation has been refixed as per notification (G.O.No.89) issued by the Registrar of Co-operative Societies, Chennai. Accordingly, the petitioner is entitled for revised pay scale for the period from 08.06.2010 to 31.01.2011. However, the petitioner was not given retirement benefits and pension, as per the revised pay fixation. Therefore, the petitioner made request to the higher officials to refix his retirement benefits as per new pay fixation. However, the second respondent failed to concede the same. Hence, the petitioner initiated a claim petition before the Labour Court in C.P.No.43 of 2015. Subsequently, the same has been transferred to Labour Court, Kumbakonam and renumbered in C.P.No.31 of 2018. During the pendency of the claim petition before the Labour Court, the second respondent by proceedings, dated 24.05.2006 refused to refix the retirement benefits as per the new pay fixation. Subsequently, the claim petition was disposed of vide judgment, dated 25.10.2018, by which, the Labour Court dismissed the claim petition on the ground that petitioner was not a workman coming within purview of Industrial Dispute Act.



W.P.(MD)No.6649 of 2020

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Against which, the petitioner preferred a revision before the first respondent in the year 2018 itself. However, the revision was returned by the first respondent authority. Subsequently, after rectifying the same, the petitioner made a request to the first respondent by preferring revision and the same was dismissed on the ground that the petitioner has preferred the revision within 90 days from the date of dismissal of the claim petition before the Labour Court and after a lapse of more than a decade, the revision petition cannot be filed and on the sole ground, the same was dismissed. Challenging the same, the present writ petition is filed with the aforesaid prayer.

3. The learned counsel for the petitioner submitted that admittedly the revision scale pay was fixed on 07.12.2010 based on G.O.No.89 issued by the Registrar of Co-operative Societies, Chennai and the petitioner entitled to claim revised scale of pay for the period from 08.06.2010 to 31.01.2011. However, that benefit was not extended to the petitioner, when he joined duty on 08.06.2010 as Secretary and he is entitled to the benefit as per Government Order and declining the



W.P.(MD)No.6649 of 2020

benefit to the petitioner, is not sustainable. Hence, he prayed for allowing the writ petition.

4. The learned Additional Government Pleader appearing for the respondents submitted that as per the proceedings of the Registrar of Co-operative Societies, Chennai in R.C.No.12730/2010/Va.Aa.1, dated 07.12.2010, orders were issued to revise the pay of the employees in the Urban Credit Societies functioning across the State with effect from 01.01.2007. Since the petitioner was working in the capacity of Secretary and he was the Chief Executive of the second respondent Society, he did not opt to revise his pay as per the said Registrar's proceedings till his date of retirement i.e., 31.01.2011. The petition filed by the petitioner in C.P.No.31 of 2018 before the Labour Court, Kumabakonam, was dismissed directing the petitioner to seek remedy by filing revision petition. The petitioner filed revision petition on 07.03.2019 before the first respondent and the same was dismissed on the ground that the revision petition had been filed on expiry of limitation period of 90 days from the date of issuance of pay fixation order and also



W.P.(MD)No.6649 of 2020

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directed the petitioner to seek remedy by filing appeal before appropriate authority. The second respondent Society is ready to disburse the arrears amount of to the tune of Rs.67,904/- payable to the petitioner in view of the revision of pay. But the petitioner refused to receive the said arrears amount stating that he is entitled for pay arrears of Rs.1,26,151/-. Hence, this writ petition is devoid of merits and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service through Employment Exchange as Accountant in the second respondent Society and after acquiring various level of promotions, thereafter, he was promoted as Secretary in the second respondent Society. In view of the conversion of Bank into Society in the year 2006, the petitioner was promoted as



W.P.(MD)No.6649 of 2020

WEB COPY

Secretary on 08.06.2010 and thereafter, he retired from service on 31.01.2011. However, the grievance of the petitioner is that as per G.O.No.89 issued by the Registrar of Co-operative Societies, Chennai, the petitioner is entitled to refix the scale of pay for the period from 08.06.2010 to 31.01.2011, till his retirement, for which, he made a claim petition before the Labour Court. The said claim petition was dismissed on the ground that the petitioner is not a workman, he is a employed as a Supervisor capacity as a Secretary. Hence, on this jurisdiction, his claim petition was rejected. However, the petitioner filed a revision petition before the first respondent in the year 2018 after a lapse of 7 years under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. The revision petition was rejected on the ground that the petitioner ought to have filed a revision petition, immediately after the dismissal of the claim petition before the Labour Court and on the sole ground, it was rejected.

7. Admittedly, the petitioner was promoted as Secretary vide letter, dated 08.06.2010 by the Management of Second respondent Society. The petitioner already drawing a pay with dearness allowance



W.P.(MD)No.6649 of 2020

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calculated on the cost of index basis at the relevant point of time and the Registrar of Co-operative Society had issued a circular, dated 07.12.2010 revising the pay of the employees of Urban Credit Societies functioning across the State with effect from 01.01.2007. Since the petitioner is working in the capacity of the Secretary and he was Chief Executive of the second respondent Society, he did not opt to revise his pay, as per the proceedings of the Registrar of Co-operative Society, till the date of his retirement i.e., on 31.01.2011. After retirement, the petitioner initiated proceedings before the Labour Court and subsequently, revision before the first respondent, is not sustainable one and settled things cannot be unsettled, after a lapse of several years and hence, the prayer sought for in the writ petition cannot be granted.

8. Accordingly, this writ petition is dismissed. No costs.

12.12.2022

Index : Yes/No
Internet : Yes / No
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8/10



W.P.(MD)No.6649 of 2020

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W.P.(MD)No.6649 of 2020

M.DHANDAPANI,J.

RM

W.P.(MD)No.6649 of 2020

12.12.2022