



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13055 of 2019 and
W.M.P.(MD)No.10673 of 2022

M.Subramanian

... Petitioner

Vs.

1. The Registrar of Co-operative Societies (Housing),
Tamil Nadu Housing Board Complex,
Nandanam, Chennai.
 2. The Deputy Registrar of Co-operative Societies (Housing),
Thanjavur Region Co-operative Housing Societies,
Daniel Thomas Nagar, V.O.C.Nagar,
Thanjavur.
 3. The Sub-Registrar of Co-operative Societies (Housing),
Mannargudi, Thiruvarur District.
 4. The President,
Mannai Narayanasamy Town
Co-operative Housing Building Society,
Mannargudi,Thiruvarur District.
- ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the retirement benefits of the petitioner for his service rendered to the T.1110 Mannai Narayanasamy District Co-operative Town House Building Society, Balakrishna Nagar, Mannargudi, Thiruvarur District as Secretary .



For Petitioner : Mr.C.M.Arumugam

For Respondents: Mr.M.Senthil Ayyanar,
Government Advocate.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined the fourth respondent Co-operative Society as Clerk on 10.02.1982. He was promoted as Secretary on 11.07.1987. He reached the age of superannuation on 31.01.2013. The writ petitioner was discharged from service in the year 2011. His terminal benefits were not settled. Since the representations submitted by the petitioner did not elicit any favourable response, the present writ petition came to be filed.

3. The learned counsel appearing for the respondents submitted that the writ petitioner suffered an order of surcharge and questioning the same, he filed C.M.A.No.18 of



2008 before the Principal District Judge / Special Tribunal for Co-operative Cases, Thiruvarur. The said C.M.A. was disposed of on 22.03.2016. Two of the charges laid against the petitioner were sustained and therefore the question of providing terminal benefits to the petitioner will not arise.

4. The stand taken by the learned counsel appearing for the respondents *prima facie* appears to be formidable. But the learned counsel appearing for the petitioner draws my attention to the fact that two of the charges which the Co-operative Tribunal upheld pertained to the loan amounts of one Venkatesh Ramakrishnan and Durai Manickam.

5. From the response given by the fourth respondent society, it has been convincingly demonstrated before me that both the loan amounts were subsequently settled. The allegation of the fourth respondent appears to be that the writ petitioner who had erroneously sanctioned the said loans, failed to take appropriate steps for recovering the same and it was only the management which recovered the loan amounts. But the fact remains that as on date there has been no loss



caused to the society in respect of the aforesaid two loan amounts. Only if there is surcharge order and the amount in question has not been recovered, then and then alone the retirement benefits payable to the petitioner can be withheld. Since it has been established before me that there has been no loss of revenue in the fourth respondent against the writ petitioner, I have no hesitation to allow the writ petition as prayed for. The fourth respondent is directed to settle the terminal benefits payable to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. The said amount will carry interest @ 6% p.a. from the date of the petitioner was discharged from service till the date of payment. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2022

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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