



W.P(MD)No.13693 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13693 of 2022

P.Chellam

... Petitioner

Vs

1.The Registrar of Co-operative Societies,
Kilpauk,
Chennai – 600 010.

2.The Joint Registrar of Co-operative Societies,
Madurai Region,
Palanganatham,
Madurai – 3.

3.The Deputy Registrar of
Co-operative Societies (PDS),
Palanganatham,
Madurai – 3.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in Na.Ka.No.4002/2021PaTho(2) dated 02.06.2022 and quash the same and consequently, direct the respondents to forthwith pay the Encashment of earned leave and unearned leave on private affairs and Special Provident Fund.



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For Petitioner : Mr.K.Saravanan
For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The writ petitioner was appointed as Senior Inspector in Co-operative Department in the year 1979. He became Co-operative Sub Registrar in the year 1993. He reached his superannuation on 28.06.2013. However, he was not allowed to retire, he was placed under suspension. The disciplinary proceedings were initiated and they are still pending. The criminal prosecution is also still pending against the petitioner.

3. The petitioner wants the petition mentioned terminal benefits to be disbursed. However, by the impugned order, the second respondent has rejected the petitioner's request. Questioning the same, the present writ petition has been filed.

4. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant the relief as prayed for.



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5. Per contra, the learned Government Advocate submitted that in view of the pendency of the disciplinary proceedings and criminal prosecution, it is possible to comply with the petitioner's request. The learned counsel drew my attention to the Government Letter No-61612/FR.III/90-1, dated 17.09.1990, which states that encashment of earned leave is possible only after finalization of the disciplinary proceedings and regulation of suspension period.

6. I carefully considered the rival contentions and went through the materials on record.

7. It is true that the disciplinary proceedings initiated against the writ petitioner are still pending. Even if the writ petitioner is dismissed from service, he cannot be denied the benefit of encashment of earned leave and unearned leave on private affairs and special provident fund. An employee's retirement benefits can be withheld only if there is a specific legal provision. It is pointed out that gratuity can be withheld but then specific order should be passed in that regard. As regards the petition mentioned retirement benefits, there is no provision that authorizes the competent authority to withhold.

8. In this view of the matter, the impugned order in this case is quashed. The respondents are directed to disburse the petition mentioned benefits forthwith and without any delay. The disbursement will carry 6% interest also.



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9. This writ petition is allowed. No costs.

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Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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