



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.03.2022

PRONOUNCED ON : 19.05.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.6789 of 2018

and

W.M.P.(MD)No.6499 of 2018

R.Arumaipitchai

... Petitioner

vs.

The Joint Registrar/ Managing Director,
Sivagangai District Central Co-op Bank Limited,
Sivagangai, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent in his proceedings in NA.KA.8703/2016/E1, dated 30.12.2017 and to quash the same as illegal and consequently, to direct the respondent to disburse the gratuity, leave salary G.S.L.I.C and E.P.F pension on account of the retirement of the petitioner, dated 30.12.2017.

For Petitioner

: Mr.G.Kannan

for M/s.Veera Associates

For Respondents

: Mr.D.Shanmugaraja Sethupathi

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed in NA.KA.8703/2016/E1, dated 30.12.2017 and consequently, to direct the respondent to disburse the gratuity, leave salary G.S.L.I.C and E.P.F pension on account of the retirement of the petitioner, dated 30.12.2017.

2. The brief facts of the case are that the petitioner was appointed on daily wages basis on 19.11.1981. Thereafter, his service was regularized by the order of the Special Officer in his proceedings in Na.Ka.18564/79, dated 19.03.1988. He was initially appointed as Office Assistant/Sub Staff. In the year 1994, the petitioner was promoted to Assistant, then, promoted as Assistant Manager on 08.01.2013. He retired from service on 30.12.2017. On 25.02.2015, a charge memo was issued alleging that on 10.07.2013,



the petitioner was employed as "In-charge Manager" in Manamadurai and passed cheque bearing No.163477, dated 10.07.2013, for Rs.75,000/-. The said cheque was presented with bogus signature of the President of the Bank and a charge memo was issued on 09.04.2015. The petitioner submitted a reply and a domestic enquiry was conducted. Finally, the charges against the petitioner were held "not proved" based on the enquiry report. The respondents, vide proceedings, dated 16.06.2017, warned the petitioner for the negligence. For the same charge, the respondents preferred a complaint to the police and the case was registered in the Crime No.1 of 2015, dated 06.03.2015, on the file of Inspector of Police, Economic offences wing, Sivagangai, under Section 408, 420, 468, 471, 477(A) read with 109 of IPC. The petitioner was arrayed as Accused No.3. The police filed a final report by deleting the petitioner's name in the criminal case.

3. In the meanwhile, the petitioner attained superannuation and the respondents passed the impugned order, dated 30.12.2017, relieving the petitioner from service but withheld the gratuity, leave salary and other benefits till the disposal of the case pending before the Trial Court. Aggrieved over the same, the present Writ Petition is filed.

4. The learned Counsel appearing for the respondents circulated typed set of papers stating the details of the enquiry and proceedings which were initiated against the petitioner.

5. Heard Mr.G.Kannan, learned Counsel appearing for the petitioner and Mr.D.Shanmugaraja Sethupathi, learned Counsel appearing for the respondents and perused the records placed before this Court.

6. The Learned Counsel appearing for the petitioner submitted a letter, dated 15.06.2018, which was issued by the Deputy Registrar, where the Deputy Registrar has stated that Section 81 enquiry recommending for surcharge proceedings was withdrawn. He also submitted that there is no surcharge proceeding against the petitioner.

7. The learned Counsel appearing for the respondents submitted that the Secretary to the said Society namely B. Karnan has filed a Writ Petition in W.P. (MD) No. 9396 of 2018, challenging the Section 81 enquiry report and this Court has granted an interim stay and the writ petition is pending. Since there is a stay for Section 81 enquiry report, the respondent Society could not proceed further. In the meanwhile, the petitioner has attained superannuation and was



allowed to retire. And also submitted that Section 81 enquiry notice alone was withdrawn and still Section 81 enquiry is pending. However, the learned Counsel appearing for the petitioner submitted that the petitioner's name was deleted from the FIR and there is no criminal case against the petitioner and there is no surcharge proceeding against the petitioner. Even the enquiry report states that the Secretary and the President had committed the mistake and the petitioner has colluded with the Secretary namely Karnan and the President, namely Thangarasu.

8. On perusal of the said report, it is seen that the allegation is against the Secretary and the President of the Society and there is no allegation against the petitioner that he has committed the offence. The allegation against the petitioner is that the petitioner has not taken any action and failed in his duty as Manager of the Society. Rightly, in the criminal proceedings the petitioner's name was deleted in the final report. The respondents have dropped the surcharge proceeding against the petitioner.

9. Therefore, this Court is of the considered opinion that the petitioner is entitled to the benefits. Moreover, he has retired from service and now he is 62 years old. Therefore, the respondents are directed to disburse the gratuity, leave salary and other terminal benefits eligible to the petitioner. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

10. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

The Joint Registrar/ Managing Director,
Sivagangai District Central Co-op Bank Limited,
Sivagangai, Sivagangai District.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-23768[F] dated
19/05/2022)

W.P. (MD) No. 6789 of 2018

19.05.2022

MGJ(27.05.2022) 4P 3C