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W.P.(MD)N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.20489 of 2015

M.P. (MD)No.1 of 2015

and

W.M.P. (MD)No.1233 of 2016

DD 547 Palayam Primary Agricultural
Co-operative Bank,
represented through its President,
Palayam Post,
Vedasandur Taluk,
Dindigul District.

... Petitioner

vs.

1.The Additional Register or Co-operative
Societies,
(Marketing Planning & Development)
Kilpauk, Chennai-10.

2.The Revisional Authority,
under Section 153 of the Tamilnadu
Co-operative Societies Act,
(Regional Joint Registrar of Co-operative
Societies),
Pudukkottai.

3.The Joint Registrar of Co-operative Societies,
District Committee Chairman,
Dindigul Region,
Dindigul District.

4.M.Ramanujam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, against the order of the 2nd respondent passed in Na.Ka.2061/2013 A2, dated 30.09.2015, in the nature of writ calling for the records on the file of the 2nd respondent and to quash the same.

For Petitioner	: Mr.V.O.S.Kalaiselvam
For R1 to 3	: Mr.Ragavendiran Additional Government Pleader
For R4	: Mr.Shanmuga Raja Sethupathy for Mr.C.Prakasam

**ORDER**

This writ petition is filed for issuance of a writ of Certiorari, to quash the impugned order, dated 30.09.2015.

2. This writ petition is filed by the Palayam Primary Agricultural Co-operative Bank against the order passed by the 2nd respondent. The 2nd respondent has passed an order directing to enquire into the matter within a period of six weeks and pass orders. The 4th respondent was an employee in the said Bank. He was appointed on 01.02.1974 and retired on attaining the age of superannuation. The 4th respondent's claim is that the terminal benefits was not paid to him. Therefore, he approached the authorities, finally, to the revisional authority. Even though the revisional authority passed an order, the petitioner society had not paid the terminal benefits to the 4th respondent.

3. When the writ petition was taken up for hearing, this Court directed the petitioner Bank to circulate the amount payable to the 4th respondent under the head of terminal benefits and the amount that ought to be recovered from the 4th respondent. The petitioner has circulated it and the same is extracted here under:

"8. It is most respectfully submitted that the terminal benefits payable to the 4th respondent is as hereunder:

(*)(i). Gratuity as per the last drawn salary : Rs.3,09,508/-	
Difference of Gratuity as per the	
revised salary	: Rs. 46,269/-

Total Gratuity	: Rs.3,55,777/-
(ii). Earned Leave Salary	: Rs.1,44,744/-
(iii) Different of Salary as per the	
increment	: Rs. 1,305/-
(iv) Security Deposit	: Rs. 511/-

	: Rs.5,02,337/-

9. It is most respectfully submitted that in the audit report the following amount is found against the 4th respondent to be payable by him.

i. The objection in the audit found dues due from him is - Rs. 1,38,269.14

ii. As on the audit report the deficit of the furniture's found dues from him is - Rs. 8,356.59

iii. As per the order in the surcharge proceedings in The Va No.3/2011sa.pa dated 14.01.2012 is - Rs. 63,790.00



iv. *The interest as per the order in the surcharge proceedings is*

- Rs. 99,572.00

Total

- Rs. 3,09,987.73"

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On scrutinizing the calculation, it is seen that the petitioner Bank has imposed an interest on the surcharge which is on the higher side and therefore, this Court is reducing the interest portion alone.

4. As far as the surcharge amount to the tune of Rs.63,790/- is concerned, the 4th respondent ought to pay the amount. As far as the audit report on the deficit of furniture to the tune of Rs.8,356.59 is concerned, this Court is inclined to quash the same. Another amount of Rs.1,38,269.14/- that is claimed as payable by the 4th respondent is the audit objection which is claimed as dues because dereliction of duty on the part of the 4th respondent. The learned Counsel appearing for the 4th respondent submitted that it is only an audit objection, wherein the revisional authority had directed the concerned authority to appoint a committee and enquiry whether the petitioner is payable or not, but till date the petitioner has not conducted any enquiry.

5. Therefore, this Court deems it fit to pass the following order:

(*)5(a). The petitioner bank is directed to disburse the terminal benefits of Rs.5,02,337/- to the 4th respondent in four equal installments within a period of four (4) months from the date of receipt of a copy of this order.

(*) (b). The rate of interest for the belated payment of the gratuity amount and other amount is 7%.

c. The 4th respondent shall pay the surcharge proceedings amount of Rs.63,790/- at the rate of 8%. (Hence the amount Rs.99,572/- would be modified based on 8% rate of interest).

d. As on date, the amount is not quantified and it is only an audit objection. Therefore, the appropriate authority shall conduct an enquiry and based on the report the petitioner shall take proceedings to recover from the 4th respondent, if need be. The petitioner shall submit an undertaking to remit the amount that would be quantified after the enquiry.



6. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Assistant Registrar (RTI)

(*) Amended as per order of this court in W.P. (MD) No. 20489 of 2015 dated 19/12/2022

Sd/-

Assistant Registrar (RTI)

// True Copy //

/01/2023

Sub Assistant Registrar (CS)

Tmg

To

(*) To be substituted to be order already despatched on 13.12.2022

1. The Additional Register or Co-operative Societies,
(Marketing Planning & Development)
Kilpauk, Chennai-10.

2. The Revisional Authority,
under Section 153 of the Tamilnadu Co-operative Societies Act,
(Regional Joint Registrar of Co-operative Societies),
Pudukkottai.

3. The Joint Registrar of Co-operative Societies,
District Committee Chairman,
Dindigul Region,
Dindigul District.

+1 CC to M/s.C.PRAKASAM, Advocate (SR-54032[F] dated 10/11/2022)

+1 CC to M/s.V.O.S.KALAISELVAM, Advocate (SR-54147[F] dated 11/11/2022)

W.P. (MD) No. 20489 of 2015
09.11.2022

AMS (08.12.2022) 4P 6C
RD (04/01/2023) 4P 6C