



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.13774 of 2018

and

W.M.P. (MD)No.2710 of 2019

A.Jeyakumar

... Petitioner

vs

1. The Director of Handloom and Textiles,
Handloom and Textiles Department,
Kuralagam II Floor,
Chennai.

2. The Assistant Director/Surcharge Proceedings Officer,
Handloom and Textiles Department,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in T.N.2/2017/G/dated 06.06.2018 and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

O R D E R

The petitioner has challenged the impugned order, dated 06.06.2018.

2. The brief facts of the case are that the petitioner was appointed as Handloom Inspector in the respondents corporation on 19.07.1988, then promoted as Handloom Officer and then promoted as Textile Control Officer (TCO) and has attained superannuation on



31.01.2017. On 27.04.2016, an enquiry was conducted for misappropriation of funds related to Sri Inbavinayagar Handloom Weavers Cooperative Society for the relevant check period from 2010-2011 and 2016-2017. Subsequently, a notice was sent to the petitioner and the petitioner submitted an explanation stating that he had worked as Special Officer in the said Society from 04.05.2009 to 22.06.2010 and 01.01.2013 to 03.03.2013. One Mr. K.V. Rajendran had worked as a Manager and he is responsible for everything. Thereafter, the first respondent allowed the petitioner to retire on 31.01.2017 without prejudice to the enquiry pending under Section 81 enquiry of the Tamil Nadu Cooperative Societies Act.

3. Heard Mr.B.Prahalad Ravi, learned Counsel appearing for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents.

4. The contention of the petitioner is that the enquiry was not conducted properly and the enquiry report is not stating any allegations / specific allegations against the petitioner. The contention of the respondent is that there is an effective alternative remedy, the petitioner ought to file CMA against this enquiry proceedings. The respondents have also submitted that the other delinquents have filed CMA and the present writ petition is not maintainable.

5. This Court is of the considered opinion that the respondents are right in stating that the petitioner ought to file CMA. However, the petitioner submitted that the petitioner had attained superannuation.

6. In the Enquiry Report it is seen that the period from 01.04.2010 to 22.06.2010, the liability is fixed for the petitioner as Rs.7,67,233/- (Rupees Seven Lakh Sixty Seven Thousand Two Hundred and Thirty Three only) and for the period from 01.01.2013 to 03.03.2013, it is fixed as Rs.8,38,477/- (Rupees Eight Lakh Thirty Eight Thousand Four Hundred and Seventy Seven only) and totally it is Rs.16,05,710/- (Rupees Sixteen Lakh Five Thousand Seven Hundred and Ten only). The petitioner is eligible for the terminal benefits as under:

SI.No	Details	Approximate Amount (in rupees)
01	Gratuity	938947.00
02	Commutation	443998.00
03	SPF 84	25000.00
04	EL Salary	734240.00
05	UEL Salary	275340.00
	Total	2417525.00



7. This Court is of the considered opinion that without expressing any opinion on the enquiry report, to meet the ends of justice, the respondents are directed to release the Commutation, SPF 84 and Unearned Leave to the petitioner and grant pension to the petitioner. The respondents shall deposit the Gratuity and Earned Leave until the disposal of the CMA and it shall be decided after the adjudication of the CMA. The respondents may deposit the Gratuity and Earned Leave in any one of the Nationalized Bank so that the burden of interest is saved to some extent. The petitioner is at liberty to file CMA and any other claim shall be adjudicated after CMA.

8. This Court is passing the following order:

a. The respondents shall disburse Commutation, SPF 84, Unearned Leave and pension to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

b. The respondents shall deposit the Gratuity and Earned Leave in any one of the Nationalized Bank until the disposal of the CMA and it shall be decided after the adjudication of the CMA.

c. The Registry is directed to hand over the original copy of the order to the petitioner within a period of one week from the date of receipt of the copy of the order by the petitioner.

d. The petitioner is directed to file the CMA within a period of four weeks thereafter.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr



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

1. The Director of Handloom and Textiles,
Handloom and Textiles Department,
Kuralagam II Floor,
Chennai.
2. The Assistant Director/Surcharge Proceedings Officer,
Handloom and Textiles Department,
Madurai.
3. The Section Office, E.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SPL GP (SR-8312[F] dated 24/02/2022)

+1 CC to M/s.B.PRAHALAD RAVI, Advocate (SR-8513[F] dated 24/02/2022)

**ORDER MADE IN
W.P. (MD) No.13774 of 2018
23.02.2022**

KVL/12.03.2022/4P/6C