



W.P.(MD) No.4252 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD) No.4252 of 2016
and
W.M.P.(MD) No.3099 of 2017

T.Swaminathan

... Petitioner

-VS-

1.The Registrar of Co-operative Societies,
No.170, Periyar High Road,
Kilpauk, Chennai-10.

2.The Joint Registrar of Co-operative Societies,
Thanjavur Region,
Thanjavur Post & District.

3.ZH-41, Pabanasam Cooperative Primary
Agricultural and Rural Development Bank,
Through its Managing Director,
Pabanasam Post and Taluk,
Thanjavur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records from the 2nd and 3rd respondent impugned order made in Na.Ka.No.8634/2015 sa.pa. dated 19.11.2015 and quash the same as illegal and consequential



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directing the 2nd and 3rd respondents to disburse the balance terminal benefits to the petitioner from 01.06.2022 at the rate of 12% interest.

For Petitioner : Mr.C.G.Pethanaraj
For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

This petition has been filed to quash the impugned order dated 19.11.2015 made in Na.Ka.No.8634/2015sapa with a further direction directing respondents 2 and 3 to disburse the balance terminal benefits to the petitioner from 01.06.2022 at the rate of 12% interest.

2. The learned counsel for the petitioner submitted that the petitioner retired from service on 31.05.2002 on attaining the age of superannuation, after completion of 39 years of service with the third respondent. He is entitled for a total sum of Rs.4,76,133/- as terminal benefits, but he was paid only a sum of Rs.2,55,202/-. Therefore, he filed a writ petition in W.P.(MD) No.5313 of 2013 seeking his retirement benefits as per his entitlement. On the basis of assurance given by the third respondent that he will be paid his retirement benefits, the petitioner



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withdrew the writ petition. He is entitled for 240 days Earned Leave encashment, but the third respondent calculated the leave salary for 180 days only. The third respondent passed an order on 15.10.2015 stating that there is nothing to pay the petitioner towards retirement benefits. Aggrieved by the same, the petitioner filed a revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as “the Act”) before the second respondent. Without considering the petitioner's claim, the impugned order has been passed rejecting the petitioner's revision petition with a direction to approach the Deputy Registrar. Therefore, the present writ petition.

3. In reply, the learned Government Advocate for the respondents submitted that under Section 90 of the Act, if any dispute touching the constitution of the board or the management or the business of a registered society arises, such dispute shall be referred to the Registrar for settlement.

4. Explanation (i) includes the claim by a registered society for any debt or demand due to it from a member, past member or the nominee,



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heir or legal representative of a deceased member and also a dispute referable and decided only by the Registrar. However, in the case on hand, the petitioner raises a dispute under Section 153 of the Act. Under Section 153, dispute regarding payment of terminal benefits cannot be raised. Therefore, the petitioner's revision petition was rejected giving him direction to approach the Deputy Registrar.

5. The learned counsel for the petitioner prayed this Court that the petitioner's revision petition filed under Section 153 of the Act may be ordered to be treated as a petition under Section 90 of the Act with a direction to dispose the same at the earliest.

6. This is a case where admittedly, the petitioner is entitled for a sum of Rs.4,38,140/-. Of this amount, the petitioner was paid only a sum of Rs.3,46,468/-. Rs.4,38,140/- represents EPF accumulation and gratuity salary. Still a sum of Rs.91,672/- is not paid to the petitioner, which has been withheld from the petitioner on the ground that the petitioner was paid excess salary.



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7. There are Judicial pronouncements that withholding of payment on the ground of excess payment after the retirement of an employee would be a hardship to the employee. Therefore, considering the merits in the claim of the petitioner, this Court directs the respondents to consider the petitioner's revision petition filed under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 as a petition filed under Section 90 of the said Act and dispose of the petition in the manner known to law within a period of two months from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner.

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

25.07.2022

Index: Yes/No

Internet: Yes

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G.CHANDRASEKHARAN, J.

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To

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