



W.P.No.12620 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12620 of 2013
and M.P.Nos.1, 2 and 3 of 2013

S.Rajendran

... Petitioner

-Vs-

1. The Registrar of Coop Societies,
(Housing),
4th Main Road, Gandhi Nagar,
Chennai-600 020.
2. The Deputy Registrar (Housing),
East Garden Street,
Fairlands,
Salem-16.
3. The Special Officer/Administrator,
S.1337, Salem Industrial
Employees Coop. House
Construction Society Ltd,
No.3-B, Samundi Complex,
Four Road, Salem-7.
4. The Coop. Sub Registrar (Housing),
& Inspection Officer,
u/s.82 of Coop. Societies Act,
Erode-II, Erode District.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records of impugned order of inspection under Section 82 of Tamil Nadu Co-operative Societies Act in Na.Ka.1850/2012/Voo dated 10.08.2012 passed by the second respondent and its consequential order in Na.Ka No.7077/2012 Sa.Pa.2 dated 16.11.2012 passed by the first respondent and quash the same, consequently directing the respondents 1 and 2 to fix the salary based on the order dated 15.06.2009 of first respondent based on the proposal sent by the third respondent dated 06.08.2009 and pay the salary including arrears within stipulated time.

For Petitioner : Mr.M.R.Jothimanian

For R1 and R2 : Mr.V.Veluchamy
Additional Government Pleader

For R3 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 10.08.2012, thereby order for inspection under Section 82 of the Tamil Nadu Co-operative Societies Act and the order passed by the first respondent 16.11.2012, thereby extended the time for inspection for a period of three months.



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2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 and 3 and perused the materials available on record. Though notice was served on the third respondent and the name has been printed in the cause list, today none appeared on behalf of the third respondent in person or through pleader.

3. While passing interim direction to pay the salary to the petitioner as per the settlement arrived under Section 18(1) of the Industrial Disputes Act dated 26.02.2008, also directed the second respondent to proceed with the inspection as contemplated under Section 82 of the Tamil Nadu Co-operative Societies Act. Pending writ petition, the second respondent conducted inspection and submitted his report dated 31.05.2013. On the basis of the report dated 31.05.2013, the second respondent initiated surcharge proceedings under Section 87(1) of the Tamil Nadu Co-operative Societies Act dated 25.08.2015. The said order was challenged by the petitioner in W.P.No.32116 of 2015. This Court, by an order dated 28.06.2016, set aside the order passed by the second respondent dated 25.08.2015 and allowed the writ petition.

4. In fact, this Court observed that the settlement arrived under Section 18(1) of the Industrial Disputes Act between the employer and the Management



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viz, the petitioner and the third respondent was approved by the second respondent, who is the author of the impugned order dated 25.08.2015. When the second respondent had given his seal of approval with regard to 18(1) settlement, the very same Officer cannot re-open the matter stating that it is contrary to the guidelines issued by the first respondent herein.

5. Now, the order of surcharge proceedings dated 25.08.2015, on the basis of the Inspection Report dated 31.05.2013 was quashed by this Court. Therefore, the Inspection Report dated 31.05.2013 has become invalid. Hence, the petitioner is entitled for salary as per the settlement arrived at between the petitioner and the third respondent under Section 18(1) of the Tamil Nadu Co-operative Societies Act.

6. Though the first limb of the prayer become infructuous, since the second respondent already conducted the inspection as contemplated under Section 82 of the Tamil Nadu Co-operative Societies Act, the consequential direction to fix the salary based on the order dated 15.06.2009 passed by the first respondent, thereby approved the proposal sent by the third respondent dated 06.08.2009 as per the settlement on 26.02.2008.



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7. Therefore, the respondents 1 and 2 are directed to fix the salary of the petitioner as per the order dated 15.06.2009 and as per the proposal sent by the third respondent dated 06.08.2009, on the basis of the settlement arrived at between the petitioner and the third respondent dated 26.02.2008, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that till the fixation of salary, the third respondent is directed to continue the payment of salary/advance to the petitioner as per the interim direction issued by this Court.

8. With the above directions, this Writ petition is disposed of. Consequently, connected Miscellaneous petitions are closed. No costs.

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(½)

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
mn



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G.K.ILANTHIRAIYAN, J.

mn

To

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(Housing),
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