



W.P.No.1277 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.1277 of 2020

N.Elangovan, M/65
S/o.M.Namachivaya Gounder
No.1, Nethaji Road 5th Lane
Tirupathur, Tirupathur District

... Petitioner

/Vs/

1.The Joint Registrar of Cooperative Societies
Vellore Region, Vellore, Vellore District

2.The President
Tirupathur Cooperative Agricultural and
Rural Development Bank
Katcheri Street
Tirupathur, Tirupathur District

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondents to disburse subsistence allowance for the period from 31.07.2012 to 16.06.2015 to the Petitioner.

For Petitioner : Mrs.Hemalatha

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader



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ORDER

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This Writ Petition has been filed for issuance of Writ of Mandamus directing the Respondents to disburse subsistence allowance for the period from 31.07.2012 to 16.06.2015 to the Petitioner.

2.The Petitioner was working as a Secretary in Tirupathur Cooperative Agricultural and Rural Development Bank, Tirupathur, Tirupathur District and he attained the age of superannuation on 31.07.2012. However, he was not allowed to retire, but only relieved from service, in view of the pending disciplinary proceedings. Subsequently, disciplinary proceedings got ended and the Petitioner found guilty and was imposed with stoppage of one increment for a period of six months. The said order was challenged by the Petitioner in W.P.No.31628 of 2013 and the same was allowed by this Court on 22.09.2017, with the direction to the second Respondent to disburse the petitioner's retirement benefits including the impugned increment. The same was not challenged by the second Respondent. Subsequently the second Respondent passed an order on 16.06.2015 by allowing the Petitioner to retire by giving effect to the order with effect from 31.07.2012 ie., from the date of his superannuation. Now the Petitioner's grievance is that the Petitioner was not allowed to retire immediately, on attaining the age of superannuation and he



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was not given with pension since the order allowing him to retire has not been passed between the period from 31.07.2012 to 16.06.2015, he ought to have been paid with subsistence allowance atleast. But the Petitioner has not been given with subsistence allowances also. Hence, the Petitioner has come out with this Writ Petition seeking direction to the second Respondent to pay subsistence allowance between the period from 31.07.2012 to 16.06.2015.

3.Heard Mrs.Hemalatha, learned counsel appearing for the Petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the Respondents.

4.Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the Respondents submitted that the Petitioner has filed another W.P.No.31628 of 2013 seeking Writ of Certiorarified Mandamus to call for the records from the first Respondent to quash the order of the first Respondent dated 03.09.2013 and to direct the respondent to settle all the terminal benefits of the Petitioner alongwith all benefits from 31.07.2012. In the said Writ Petition, an order has been passed on 22.09.2017 to consider the representation of the Petitioner and pass appropriate orders and the same is still pending for consideration.



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5.If the Petitioner is allowed to get Pension between the period from 31.07.2012 to 16.06.2015, he will not be entitled to get subsistence allowance for the same period. If the second Respondent is to take a decision that the Petitioner is not entitled to pension during the said period, then the Petitioner will be entitled to get subsistence allowance.

6.Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the Respondents submitted that the relationship between the employee and employer will get disrupted on the date when the Petitioner attains the age of the superannuation. The position would be fine if the employee was allowed to retire on the date of attaining the age of superannuation. If the employee is not allowed to retire but the disciplinary proceedings continue to be pending against him, then at the end of the disciplinary proceedings, the employer is bound to pass some orders either to reinstate him, or to retire or to remove him from service or pass an order for compulsory retirement, whichever he deems fit in the discretion of the appointment authority. Once the relationship between the employer and employee is served, the employer is not entitled to pass the above order.



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7. In many cases, when the disciplinary action is quashed but the employee is not allowed to retire, directions have been given to reinstate the employee and then give him an order of retirement.

8. Hence, I feel it is appropriate to direct the second Respondent either to dispose the representation of the Petitioner for granting of pension as directed in earlier W.P.No.31628 of 2013 or to consider the Petitioner's case for granting him subsistence allowance between the period from 31.07.2012 to 16.06.2015.

9. With the above direction, this Writ Petition is disposed of. No costs.

08.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

1. The Joint Registrar of Cooperative Societies
Vellore Region, Vellore, Vellore District

2. The President
Tirupathur Cooperative Agricultural and
Rural Development Bank
Katcheri Street
Tirupathur, Tirupathur District



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R.N.MANJULA, J.

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