



W.P.No.26997 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM:

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

W.P.No.26997 of 2015 and
MP.No1 of 2015 & WMP.No.29535 of 2016

S.Shanmugasundaram

... Petitioner

Vs.

1.The Additional Registrar of Coop. Societies,
(Marketing, Planning and Development),
NVN Natarajan Maaligai,
E.V.R.Periyar Road, Kilpauk,
Chennai-10

2.The Joint Registrar of Co-op Societies,
Tiruppur Region, Tiruppur,
Tiruppur District

3.The President,
Vellakoil Primary Agricultural
Coop. Credit Society, Vellakoil,
Tiruppur District

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the second respondent to take necessary action against the third respondent for non-implementation of the order passed by the second respondent dated



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29.08.2013 by invoking under Section 157 and 158 of Tamilnadu Coop. Societies Act.

For Petitioner : Mr.C.Prakasam

For Respondents

For R1 & 2 : Mr.M.Muthusamy,
Government Advocate

For R3 : Mr.L.P.Shanmugasundaram

ORDER

This writ petition has been filed for direction to the second respondent to take action as against the third respondent for non implementation of the order passed by the second respondent dated 29.08.2013.

2. The petitioner was appointed in the third respondent society. Due to charges served on the petitioner, disciplinary proceedings was initiated against him on the ground that the petitioner along with others misappropriated several lakhs of rupees from the third respondent society. After completion of enquiry, the petitioner was removed from service in the year 1982. He approached this court and again he was reinstated into service. Finally, after the disciplinary proceedings, he was



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terminated from service on 05.10.2009. He preferred revision under Section 153 of Tamilnadu Cooperative Societies Act before the first respondent, wherein order was passed on 11.05.2012. Aggrieved by the same, the petitioner filed writ petition before this court in WP.No.14332 of 2012 and subsequently it was withdrawn by the petitioner. Pursuant to the said order, the second respondent by an order dated 29.08.2013 directed the third respondent to calculate his benefits as per the revised scale and disburse all terminal benefits. However, the third respondent failed to act upon the direction issued by the second respondent.

3. On perusal of the counter, revealed that the petitioner was placed on suspension on 12.08.2004. In order to comply with the interim order passed by this Court, he was once again reinstated into service. After completion of disciplinary proceedings, the petitioner was terminated from service on 05.10.2009. The petitioner filed revision before the first respondent. The first respondent reduced the punishment of dismissal and modified the punishment. The first respondent also treated the period of suspension underground by the petitioner from



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05.08.2004 to 05.10.2009 as period of suspension undergone by way of punishment. The period from 06.10.2009 to 30.07.2010 was directed to be treated as period of break in service. Therefore, the petitioner would not be entitled to monetary benefit on the principle of 'no work no pay' during the suspension period. The petitioner was permitted to retire from service on 31.07.2010. In pursuant to the order passed by the first respondent, the second respondent mechanically directed the third respondent to disburse terminal benefits to the petitioner calculating the revised pay scale of the petitioner. It is contrary to the order passed by the first respondent. Therefore, the third respondent calculated the retirement benefits as directed by the first respondent and disbursed the same to the petitioner.

4. Therefore, the petitioner is not entitled to get any monetary benefits during the period of break in service. Further, he is not entitled for any retirement benefits based on the salary payable to him on the date of his retirement. The petitioner was not directed to be reinstated with all consequential benefits. Therefore, he is not entitled for any monetary



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benefits based on the notional increments and other notional revised pay scale. As such, this writ petition is devoid of merits and liable to be dismissed.

5. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

21.08.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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4. The Government Advocate,
High Court, Madras.

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