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W.P.No.9295 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9295 of 2023
and WMP Nos.9396 and 9397 of 2023

1.Umarani Narayanan
2.N.Loganathan

...Petitioners

Vs

- 1.The Registrar of Co-operative Societies, (Housing),
Tamil Nadu Cooperative Housing Federation Complex,
Second Floor, No.48, Ritherdon Road,
Veppery, Chennai-600 007.
2. The Deputy Registrar (Housing),
No.873, First Floor,
Gangeya Nallur Road,
Gandhi Nagar East,
Vellore.
3. The General Manager,
Dharmapuri District Central Co-operative Bank Ltd.,
10/H, Netaji Bypass Road,
Post Box No.16,
Dharmapuri-636 701.
4. The President,
KK 361 Hosur Co-operative Housing Society Limited,
Hosur Town and Taluk,
Krishnagiri District.



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5. The Secretary,
KK 361 Hosur Co-operative Housing Society Limited,
Hosur Town and Taluk,
Krishnagiri District.

6. The United India Insurance Company Limited,
No.24, Whites Road, Chennai-600 014.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent dated 15.12.2022 made in Na.Ka.No.360/2022/AA1 and the consequential order passed by the respondents 4 and 5 dated 23.12.2022 and to quash the same, consequently direct the respondents to disburse the i) terminal benefits namely, Gratuity, Earned Leave salary, Provident Fund, Family Benefit Fund, Family Insurance amount and arrears of salary with prevailing rate of interest forthwith.

For Petitioners : Mr.C.Prabakaran

For Respondents : Mr.P.Sanjay Gandhi
Government Advocate
For R.1 and R.2
Mr.P.Anbarasan
For R.3
Mr.M.Murali
R.4 and R.5
Mr.B.Raghavan
for M/s Gopalan & Associates

ORDER

The first petitioner is the wife and the 2nd petitioner is the son of one K.Narayanan, who was an employee of the fourth respondent Housing Society.

While in service, the employee died on 28.04.2021. The DCRG benefits as well



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as the other benefits including the medical insurance and L.I.C and pensionary benefits have not been disbursed to the petitioners which have prompted the petitioners to file the present writ petition.

2. The only reason assigned by the fourth respondent in the counter affidavit is that the Society is running on loss and the employees have not been paid their salary from 01.07.2013 onwards. It is also stated that the Society owns a property which could be liquidated for the purpose of settling the petitioners.

3. According to the fourth respondent, the petitioners are entitled for gratuity for a sum of Rs.1,34,285/-, leave encashment of 180 days Rs.64,500/-, Provident Fund amount of Rs.6,19,708/-, salary unpaid from 01.08.2013 to 13.11.2020 for a sum of Rs.8,62,374/- and family insurance of Rs.2,00,000/-.

4. I am not in appreciation of the manner in which the DCRG benefits and other pensionary benefits have been denied to the family members of an employee who had joined on 07.03.1997 and after serving for about 23 years had died. The reason that the Society has been running on loss cannot be justified since admittedly, the Society owns a property and though they have not



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paid DCRG benefits to the petitioners and also have not paid salaries to the employees from 2013 onwards, they have not taken any effective steps to liquidate the property over these years.

5. It is also stated in the counter affidavit that the Registrar of Cooperative Societies is awaiting permission of the State Government for such approval. On this ground, there is no justification for making the petitioners to wait for approval from the Government. The first respondent herein ought to have taken efficient and effective steps to have the approval obtained over all these years, which they failed to do so. In this background, this Court has no other alternative but to pass positive orders stipulating a time limit for disbursing DCRG and pensionary benefits.

6. In the light of the above observations and findings, the impugned order dated 23.12.2022, which also gives the same reasons as that of the counter affidavit filed before this Court denying the petitioners DCRG and pensionary benefits, cannot be sustained.

7. It is now stated by the learned counsel for the third respondent that the contributions of the late employee has not been received from the fourth



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respondent and therefore, they were not in a position to make their 50% contribution and remit the same before LIC. Likewise, learned counsel for the sixth respondent would submit that the medical reimbursement claim is governed by a Scheme and disbursement of the same would only be in accordance with the permissible criteria under the same and therefore, the same requires independent adjudication.

8. This Court is of the view that apart from the life insurance and medical reimbursement claim, the rest of DCRG and pensionary benefits may be directed to be disbursed to the petitioners with liberty to the petitioners to make independent claims towards LIC and medical reimbursements.

9. Accordingly, the impugned orders dated 15.12.2022 passed by the second respondent and dated 23.12.2022 passed by the respondents 4 and 5 are hereby quashed and consequently, there shall be a direction to the fourth respondent herein to forthwith disburse the DCRG and pensionary benefits, including arrears of monthly pension to the petitioners, as expeditiously as possible, in any event within a period of three months from the date of receipt of a copy of this order. The petitioners are at liberty to make independent claims with the respondents 3 and 6 herein with regard to LIC and medical



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reimbursement respectively. The petitioners are also at liberty to make independent claim for compassionate appointment within a period of three months from the date of receipt of a copy of this order.

10. The writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2023

Index:Yes
Speaking order
sr

To

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M.S.RAMESH,J.,

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