IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No. 36466 of 2016

K.Sundaramoorthy ... Petitioner

Versus

1.The Joint Registrar of Co-operative Societies,
Vellore Region, Collectorate Campus,
Sathuvachari, Vellore, Vellore District.

2.The President,
C-2454, Vellakuttai Primary Agricultural
Co-operative Credit Society,
Vellakuttai and Post-635 752,
Vaniyambadi Taluk, Vellore District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Mandamus, directing the respondents to disburse the petitioner's terminal benefits to the tune of Rs.1,78,019/- together with the interest from date of the petitioner's superannuation date 31.07.2008 to till date of amount settle by the respondents to the petitioner by implementing the order passed by the 1st respondent in his proceedings Na.Ka.No.7635/15 A2-Revision Petition No.18/2015 dated 01.03.2016 in so far relates to disbursement of the terminal benefits.

For Petitioner : Mr.C.Prakasam

For Respondent 1 : Mr.T.M.Rajangam
Government Advocate

For Respondent 2 : Mr.L.P.Shanmugasundaram

O R D E R

This writ petition has been filed seeking issuance of a Writ of Mandamus, directing the respondents to disburse the petitioner's terminal benefits to the tune of Rs.1,78,019/- together with the interest from date of petitioner's superannuation on 31.07.2008 to till date of amount settle by the respondents to the petitioner.

2. The case of the petitioner is that he was appointed as a clerk in the 2nd respondent society in the year 1980 and subsequently, he was promoted as Senior Clerk and in the year 1995, he was made as Secretary in the 2nd respondent society and relieved from service on 31.07.2006 on attaining superannuation. Though the petitioner was initially denied his benefits, pursuant to order of this Court in W.P.No.3615 of 2014, the respondents made a part payment. However, the entire benefits were not settled. Therefore, the writ petitioner filed a revision petition under Section 153 of Tamil Nadu Co-operative Societies Act.

3. The 2nd respondent has filed a counter and claims that no amount remains to be paid to the writ petitioner. On the contrary, the respondents stated in the counter that the petitioner has to pay a sum of Rs.2,78,211/- to the 2nd respondent and on that score, no amount was payable to the petitioner. The petitioner's grievance is that despite the order in W.P.No.3615 of 2014, directing the 2nd respondent to settle the petitioner's benefits that were withheld by the 2nd respondent, the 2nd respondent has not even complied with the orders of this Court passed as early as on 13.02.2014. He further stated that in the counter it is mentioned that the terminal benefits were paid to the petitioner on different dates and a sum of Rs.35,596/- was adjusted in view of the audit objection raised for the year 1998-99 on 31.05.2016. According to the respondents, all amount due and payable to the petitioner have been paid and nothing remains to be paid.

4. During the course of argument, the learned counsel for the 2nd respondent also submitted written instructions and according to the said calculation provided therein, the petitioner has already been paid a sum of Rs.2,07,157/- and the balance claimed by the petitioner is also mentioned as

Rs.1,78,019/-. From the statement furnished by the 2nd respondent, it is seen that a sum of Rs.35,596/- has been adjusted towards gratuity arrears in view of the audit objection raised for the year 1998-1999. Further, it is admitted that the said audit objection has been raised only on 31.05.2016, Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 does not contemplate any audit objection after the expiry of 7 years from the date of any act or omission referred to in Section 87(1) of Tamil Nadu Co-operative Societies Act, 1983. Here, admittedly, the petitioner retired from service on 31.07.2008 after attaining the age of superannuation. The audit objections said to have been taken on 31.05.2016 does not have any statutory force and it is contrary to Section 87(1) of Tamil Nadu Co-operative Societies Act, 1983 as well. Therefore, the contention of the 2nd respondent that the amount has been lawfully adjusted and nothing remains to be paid to the petitioner is not found acceptable. Moreover, when this Court has specifically directed the 2nd respondent to settle all the benefits payable to the petitioner in the earlier ground of litigation in W.P.No.3615/2014, it would not be open to the 2nd respondent to withhold the amount and deny settling the petitioner's benefits. The petitioner is entitled for relief.

5. Accordingly, the writ petition is allowed and the 2nd respondent is directed to settle the petitioner's terminal benefits to the tune of Rs.1,78,019/- together with interest of 8% per annum from 01.08.2008, till the date of payment. The respondent shall carry out this exercise within a period of eight weeks from the date of receipt of a copy of this order.

30.06.2023

Index: Yes/ No
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To

The Joint Registrar of Co-operative Societies,
Vellore Region, Collectorate Campus,

P.B.BALAJI, J.,

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W.P.No. 36466 of 2016

30.06.2023