



WEB COPY

W.A.No.2586



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.2586 of 2023
and
CMP.No.21837 of 2023

The President,
I.I.606, Arasur Primary Agricultural Cooperative,
Credit Society Ltd., Arasur & Post - 607 107,
Thiruvannainallur Taluk, Villupuram District.

.. Appellant

Versus

1. The Joint Registrar of Co-operative Societies,
Villupuram Region, Villupuram Dist.,
2. The Deputy Registrar of Co-operative Societies,
Thirukoilur Circle, Thiruvoilur,
Kallakurichi Dist.,
3. T.Ramalingam

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 07.07.2023 passed by the learned Judge in WP.No.2683 of 2022.

For Appellant	:	Mr.T.Girija
For R1 & R2	:	Mr.E.Sundaram, Government Advocate
For R3	:	Mr.C.Prakasam

**JUDGMENT**

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

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This writ appeal arises from the order dated 07.07.2023 passed by the learned Judge, in W.P.No.2683 of 2022.

2. The case in brief is as follows:

The third respondent was appointed as Office Assistant in the appellant society on 01.07.1986 and he retired from service on 31.01.2020. Alleging that he was not paid salary for 55 months i.e., from 01.09.2003 to 31.03.2008, the third respondent had filed WP.No.15891 of 2020, in which, a direction was issued to the respondents therein, to consider the third respondent's representation dated 11.09.2020, on merits and as per law. Pursuant to the same, the first respondent has passed an order in Na.Ka.No.1009/2021/Sa.Pa. dated 02.12.2021 directing the appellant herein to disburse the sum of Rs.16,37,592/- to the third respondent. However, the said direction has not been complied with by the appellant. Therefore, the third respondent filed another writ petition in WP.No.2683 of 2022 seeking a direction to the respondents 1 and 2 to disburse his retirement benefits along with arrears of salary to the tune of Rs.16,37,592/- by initiating appropriate proceedings by way of attaching appellant society's properties. By the order impugned herein, the learned Judge disposed of the said writ petition, by directing the appellant to pay the arrears



and retirement benefits to the writ petitioner with interest at 7% per annum, within a period of three months. Aggrieved by the same, the appellant / third respondent in the writ petition, has preferred this writ appeal.

3. According to the learned counsel for the appellant, the third Respondent was placed under suspension on 22.07.1999, on the charge of furnishing false educational transfer certificate and was subsequently, dismissed from service, on 09.10.1999, against which, he preferred appeal before the Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947. By order dated 28.03.2002, the said appeal was allowed by the Deputy Commissioner of Labour. Pursuant to the same, the third respondent was reinstated into service on 09.04.2008 and at that time, he has not claimed any backwages. Thereafter, he preferred a claim petition bearing No.984/2003 before the Labour Court, Cuddalore, for payment of backwages for the period from July, 1997 to November, 2003 to the tune of Rs.3,33,851/- along with interest at 15%, which was allowed and the appellant was directed to pay the same in three instalments. According to the learned counsel, the said direction was complied with by the appellant. Now, the respondent has filed WP.No.2683 of 2022, claiming backwages for the period from 01.09.2003 to 31.03.2008 to the tune of Rs.5,83,553/- without there being an order passed by any court, in this regard. It is also submitted that the claim of the third respondent in the writ petition is Rs.16,37,592/-, whereas

the amount actually payable to him, as per the books of accounts, would be



Rs.10,54,039/- only. It is further submitted by the learned counsel that the appellant is functioning under accumulated loss of Rs.2,37,91,182/- as on 31.03.2020 and hence, is unable to pay the terminal benefits, not only to the third respondent, but also other employees, who retired from service prior to him. Without properly considering all these aspects, the learned Judge erred in disposing of the writ petition and directing the appellant to pay the salary and terminal benefits along with interest.

4. However, the learned counsel for the appellant ultimately submitted that it would suffice, if a liberty is given to the appellant to approach the learned Judge, with a petition to modify / review the order so passed in the writ petition.

5. In view of the above submission made by the learned counsel for the appellant, this Writ Appeal is disposed of granting liberty to the appellant to file necessary petition within a period of two weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
17.10.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Joint Registrar of Co-operative Societies,
Villupuram Region, Villupuram Dist.,
2. The Deputy Registrar of Co-operative Societies,
Thirukoilur Circle, Thiruvailur,
Kallakurichi Dist.



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