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W.P.No.27516 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.27516 of 2023
and W.M.P.No.26992 of 2023

T.Prakash

... Petitioner

Versus

1. The Joint Registrar of Cooperative Societies
Krishnagiri Region
Krishnagiri District

2.The Deputy Registrar of Cooperative Societies
Krishnagiri Circle
Krishnagiri District

3.The Management of K.K.117, MalaiaandaiAlli
Primary Agricultural Co-operative Credit Society
Rep by its President
Krishnagiri District

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Impugned resolution No. 1 and their proceedings of the 3rd respondent dated 30.04.2020 and quash the same and consequently direct the respondents to pay petitioner retirement benefits a total sum together with interest @ 10 percent amounts to Rs 16 06 698/- from the date of retirement i.e 30.04.2020 till the payment is made within stipulated time.



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For Petitioner : Mr.L.P.Shanmugasundaram
For Respondents : Mr.V.P.R.Elamparithi for R1 & R2
Additional Government Pleader
Mr.K.Surendran for R3

ORDER

This writ petition has been filed challenging the Resolution No.1 and proceedings of the 3rd respondent dated 30.04.2020, quash the same and consequently direct the respondents to pay petitioner's retirement benefits a total sum together with interest @ 10 percent amounts to Rs.16,06,698/- from the date of retirement i.e., 30.04.2020, till the payment is made within stipulated time.

2. Though the petitioner was permitted to retire subject to the action to be taken and it appears that surcharge proceedings is initiated against the petitioner. The charges against the petitioner are particularly with regard to Serial Nos.16 and 18 which would come around to Rs.3,91,698/-. Such being the position, in the event, surcharge proceedings is proved against the petitioner, the petitioner is liable to pay such amount with interest. Such view of the matter, entire retirement benefits cannot be withheld. In this regard, this Court in W.P.No. 6657 of 2023, by Order dated 11.07.2023 has held as follows:

"6. Though certain discrepancies were found in the audit



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for the year 2018-2019, it is relevant to note that based on the audit report, no surcharge proceedings were initiated under Section 87 of the Tamil Nadu Co-operative Societies Act. Now, the petitioner though was not permitted to retire, it appears that no departmental proceedings were also initiated against him however, he was relieved from service on 31.07.2022. It is relevant to note that even assuming that any surcharge proceedings culminates as against the petitioner which is enforceable order. Whereas as per Sections 78 and 79 of the Tamil Nadu Co-operative Societies Act, there is clear bar for attaching the Provident Fund as well as Gratuity. Further, the Division Bench of this Court in W.A.No.1466 of 2015, after perusing various statutory proceedings including the Payment of Gratuity Act, 1972, the Employees- Provident Funds and Miscellaneous Provisions Act, 1952 and Sections 78 and 79 of the Tamil Nadu Co-operative Societies Act, 1983, held that the terminal benefits cannot be withheld in the absence of any statutory provision enabling the same and directed the respondents to pay the amount.

7. It is the case of the petitioner that there is totally a sum of Rs.16,59,831/- payable to the petitioner though he was not permitted to retire from service. In such view of the matter, the respondents are directed to release all the retirement benefits namely Provident Fund, Gratuity and Leave Encashment to the petitioner; within a period of two months from the date of receipt of a copy of this order and liberty is hereby granted to the respondents to proceed against the petitioner in the event of any surcharge proceedings reached its logical conclusion for recovery of any alleged amount as per law. However, the respondents are directed to settle the retirement benefits as indicated above, with statutory interest at the rate of 10% per annum, within a period of two months from the date of receipt of a copy of this order and in the event of failure to settle the amount, the amount shall carry 12% interest till the amount is settled.

8. With the above direction, the writ petition stands



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disposed of. No costs. Consequently, connected miscellaneous petition is closed."

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3. Accordingly, the respondents are directed to release the retirement benefits except Rs.3,91,698/- within a period of two months from the date of receipt of a copy of this Order.

4. In view of the above, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Internet: Yes/No

Index : Yes/No

Neutral Citation : Yes/No



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To

1. The Joint Registrar of Cooperative Societies
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Krishnagiri District

2.The Deputy Registrar of Cooperative Societies
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Krishnagiri District

N. SATHISH KUMAR, J.



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