



W.A.No.305 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE G.ARUL MURUGAN

W.A.No.305 of 2020 and
C.M.P.No.5270 of 2020

- 1.The Additional Registrar of
Co-operative Societies,
(Sales, Planning and Development),
Kilpauk, Chennai – 10.
- 2.The Chairman,
Common Cadre Authority/Joint Registrar
of Co-operative Societies,
Salem Region, Salem, Salem District.
- 3.The Special Officer,
S.411, Suramangalam Primary Agricultural
Co-operative Bank,
Suramangalam Post,
Salem – 5.

... Appellants

Vs.

K.C.Sundaram

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 01.07.2019 in W.P.No.19674 of 2009.

For 1st & 2nd Appellants : Mr.R.Kumaravel
Addl. Government Pleader



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For 3rd Appellant : Mr.L.P.Shanmugasundaram

For Respondent : Mr.C.Prakasam

JUDGMENT

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

This intra Court appeal has been directed against the order passed by the Writ Court dated 01.07.2019 made in W.P.No.19674 of 2009.

2. That the respondent K.C.Sundaram was an employee of the appellant Society i.e., the 3rd appellant viz., Suramangalam Primary Agricultural Co-operative Bank. Against the respondent disciplinary proceedings were initiated by the 3rd appellant which ended in removal from service. The said order was under challenge before the revisional authority under Section 153 of the Tamil Nadu Cooperative Societies Act. The revisional authority by order dated 12.09.2009 rejected the revision filed by the 1st respondent, therefore confirming the order of removal from service. Aggrieved over the said order and challenging the same, the 1st respondent filed writ petition which was decided by the Writ Court on 01.07.2019 through the impugned order whereby the writ petition filed by the 1st respondent was allowed. As against the said order



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passed by the Writ Court, the present appeal has been directed.

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3. Heard Mr.L.P.Shanmugasundaram, learned counsel appearing for the 3rd appellant and Mr.R.Kumaravel, learned Additional Government Pleader appearing for the 1st and 2nd appellants. The main contesting appellant is the 3rd appellant Society. Heard Mr.C.Prakasam, learned counsel appearing for the respondent employee.

4. It is to be noted that, when this appeal came up for consideration before the First Bench of this Court in the year 2020, the First Bench passed an interim order, where, the following direction has been given.

“4. Having considered the submissions raised, it will be appropriate that instead of sending it to the Lok Adalat and then awaiting a decision, in view of the statement made by learned counsel for the respondent/petitioner before us today, learned counsel for the appellants may file an appropriate affidavit indicating his offer with regard to the settlement as proposed and serve a copy of such affidavit on Shri C.Prakasam, learned counsel for the respondent/petitioner. In the event the same is acceptable to the respondent/petitioner, the matter can be disposed of here itself instead of sending it to the Lok Adalat.



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5. Let the affidavit be filed by learned counsel for the appellants within two weeks.”

5. Pursuant to the said order passed by the First Bench of this Court, the 3rd appellant through its President has filed an affidavit, where, *inter alia*, the following has been stated.

“4. In obedience of the orders of this Hon'ble Court, I humbly submit the Memo of Calculation arrived without back-wages as below:

**Table showing the terminal benefits payable to Thiru.K.C.Sundaram
(Ex-Secretary) – Date of Superannuation 30.04.2019**

S.No.	Details	Amount
1	Gratuity Pay after arriving new time scale of pay on 30.04.2019 DA Total Calculation for Gratuity 47,885 X 36 X 15 ----- = 9,93,912 26 Gratuity payable	Rs.43,925 Rs. 3,930 ----- Rs.47,855 ----- Rs. 9,93,912
2	EPF Own contribution/Employee contribution and Society /Employer contribution along with interest	Rs. 5,68,548
3	Encashment of Surrender Leave - 240 days – Rs.47,855 X 8	Rs. 3,82,840
4	Security Deposit	Rs. 2,170
	Total terminal benefits payable	Rs.19,47,470



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6. Therefore, the 3rd appellant Society had come forward to settle the issue amicably by paying the entire service benefits as the 1st respondent superannuated on 30.04.2019, however such benefits so calculated would be paid not in one lumpsum but by way of 10 equal monthly instalments.

7. Pursuant to the said offer that has been forwarded by the 3rd appellant through the said affidavit dated 22.09.2020, in fact, the 3rd appellant Society had acted upon by sending cheques in September 2020, February 2021 and July 2021 for a sum of Rs.1,94,747/- each.

8. However, the respondent employee did not accept the same as he seems to have disputed the quantum arrived at by the 3rd appellant and in this context, according to Mr.C.Prakasam, learned counsel appearing for the respondent apart from the due that has been calculated by the 3rd appellant in the affidavit to the extent of 19,47,470/- still a sum of Rs.1,30,825/- is due under the heading arrears of subsistence allowance as well as the salary for three months.



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9. If that amount also is calculated and paid, the learned counsel appearing for the respondent submits that, the respondent would accept the same as a full settlement.

10. However, Mr.L.P.Shanmugasundaram, learned counsel appearing for the 3rd appellant would contend that, based on his salary, Gratuity, E.P.F., Employer-Employee's contribution, Encashment of Surrender Leave, Security Deposit, everything has been calculated that comes totally the said sum of Rs.19,47,470/-, apart from that, no other due is payable to the employee, however if the employee demands further amount as stated supra under the heading of subsistence allowance and salary for three months, that would also be verified by the 3rd appellant and if employee is entitled to get that amount that would also be calculated and be paid.

11. We have considered the said submissions made by the learned counsel appearing for both sides and we have taken note of the averment that has been made by the 3rd appellant in the affidavit dated 22.09.2020 which in fact has been filed of course pursuant to the order passed by the First Bench of this Court by order dated 03.09.2020.



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12. In view of the aforesaid settlement which have been reached between the parties except a small grey area with regard to the subsistence allowance and three months salary, we feel that, a quietus can be given to this issue by disposing of this writ appeal.

13. The learned counsel appearing for the 3rd appellant Society also requested to give five bimonthly installments for making the said payment of 19 lakhs and odd and the first installment would be commenced from January, 2024, that has also been taken note of.

14. In the result, this writ appeal is disposed of with the following orders:

(i) That the order passed by the learned Judge which is impugned herein is to be sustained accordingly it is sustained.

(ii) As a sequel, as agreed upon between the parties a sum of Rs.19,47,470/- be paid by the 3rd appellant Society to the respondent employee in five bimonthly equal installments and the first such installment would be commenced from January, 2024. Without default all these



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five installments shall be paid by the 3rd appellant Society.

(iii) Insofar as the claim made by the employee with regard to the subsistence allowance to the extent of Rs.1,30,825/- and the three months salary is concerned, that shall be verified by the 3rd appellant Society at their records and based on the entitlement of the employee, that can also be calculated and be paid. In this context, before taking any decision by the 3rd appellant Society, an opportunity be given to the respondent employee. The needful as indicated above shall be complied with strictly in accordance with the time schedule that we have indicated without any deviation.

15. With all these directions, this Writ Appeal is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] [G.A.M., J.]
12.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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R. SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

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