



WEB COPY



WP No.32678 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM :

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Writ Petition No. 32678 of 2018

and

W.M.P.No.37880 of 2018

M. Sivan

.. Petitioner

Versus

1.The State of Tamil Nadu

Rep.by its Principal Secretary

Co-operation, Food & Consumer Protection

(CC1) Department,

Fort St. George, Chennai – 600 009.

2.The Registrar of Co-operative Societies

Kilpauk, Chennai – 600 010.

3.The Deputy Registrar of Co-operative Societies

Dharmapuri Region

Dharmapuri.

4.Dharmapuri District Central Co-operative Bank

Rep.by its Managing Director

Bye-pass Road

Dharmapuri District – 636 701.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to grant, sanction and pay ex-gratia pension to the petitioner or his family in terms of G.O. Ms. No.132 dated 20.09.2010 and G.O. Ms. No.160 dated 11.11.2010 Co-operation, Food



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& Consumer Protection (CCI) Department issued by the 1st respondent under “Employees Retirement Pension Scheme – 1995” with effect from 30.06.2003 to till this date with interest at the rate of 12% per annum along with accumulated arrears.

For Petitioner

.. Mr. G. Ethirajulu

For R1

.. Mr. D. Gopal, Government Advocate

For R2 to R4

.. Mr. L.P. Shanmugasundaram

ORDER

The petitioner has come forward with this Writ Petition praying to issue a Writ of Mandamus directing the respondents to grant, sanction and pay ex-gratia pension to him or his family in terms of G.O. Ms. No.132 dated 20.09.2010 and G.O. Ms. No.160 dated 11.11.2010 issued by the first respondent under Employees Retirement Pension Scheme – 1995 with effect from 30.06.2003, the date on which he retired, till the date of disbursement with interest at the rate of 12% per annum along with accumulated arrears.

2. On going through the averments made in the affidavit filed in support of the writ petition, it is seen that the petitioner was appointed as Attender in the 4th respondent Society on 31.08.1967 and retired as Accountant on 30.06.2003. During the course of his employment, on 11.10.2001, charges were framed against him and others alleging that he had issued loans to small



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vendors contrary to the Rules and Regulations of the Society and thereby caused monetary loss to the Society. An enquiry was conducted in which the petitioner fully participated. On 22.03.2004, the Enquiry Officer submitted his report holding that the charges against the petitioner are proved. Based on the proved charges, the petitioner was dismissed from service on 14.05.2004. Aggrieved by the same, the petitioner filed Revision under Section 153 of the Tamil Nadu Co-operative Societies Act, before the Second respondent. The Revision filed by the petitioner was allowed on 06.01.2006 and the same reached finality.

3. Even after the retirement of the petitioner or upon the order of dismissal, which was set aside by the Revisional Authority, the third respondent initiated surcharge proceedings against the petitioner and ultimately by an order dated 06.01.2010, directed the petitioner to pay the amount determined thereof. As per the surcharge proceedings a total sum of Rs.13,81,371/- was to be paid by the petitioner together with interest as on 06.01.2010. Aggrieved by the same, the petitioner filed CMA (CS) No.10 of 2010 before the Co-operative Tribunal (Principal District Judge) Dharmapuri. The Appellate Court, by order dated 17.11.2011, allowed the appeal. As against the same, the Department has filed W.P. No. 22482 of 2014 before this



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Court to set aside the order dated 17.11.2011. By order dated 15.05.2017, this Court dismissed the writ petition and no relief prayed for by the Department has been granted. As against the order dated 15.05.2017 passed by this Court, no further appeal has been preferred and it has become finality.

4. After the order dated 15.05.2017 passed by this Court in W.P. No. 22842 of 2014 filed by the Department, the petitioner sought for extending the benefits conferred under the Employees Retirement Pension Scheme 1995 to him. As per the scheme, a sum of Rs.1,250/- was ordered to be paid to the retired employees from the corpus fund. The scheme was introduced on 20.09.2010 as per G.O. Ms. No. 160 dated 11.11.2010 by the Government. The salient feature of the scheme is that those employees retired from the co-operative societies and who were not brought under the pension scheme are entitled to get an ex-gratia pension of Rs.1,250/-. According to the petitioner, he retired on 30.06.2003 and after his retirement, he was not paid pension. The petitioner therefore submitted repeated representations on 14.07.2012, 07.08.2012, 12.09.2012, 26.11.2013, 29.06.2017, 30.12.2017 and 14.02.2018 claiming ex-gratia pension. In fact, to the representation dated 14.02.2018, the third respondent sent a reply dated 20.02.2018 stating that a report has been called for from the fourth respondent Society to ascertain the status of receipt



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of pension, if any paid to the petitioner and on receipt of such report further action will be taken. However, till the date of filing this Writ Petition on 24.11.2018, the respondent has not paid any pension and therefore, the petitioner is before this Court by filing this Writ Petition.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

6. The relief sought by the petitioner lies in a narrow compass. The petitioner retired on 30.06.2003. After his retirement, surcharge proceedings were initiated against him and demand was made by the 4th respondent Society to pay a sum of Rs.13,18,371/- as on 06.01.2010 towards the alleged loss caused by the petitioner to the Society. The petitioner successfully assailed the order passed in the surcharge proceedings by filing CMA (CS) No.10 of 2010. The Appellate Court, set aside the surcharge proceedings, which was also confirmed by this Court in the order dated 15.05.2017 passed in W.P. No. 22842 of 2014. Even though, the surcharge proceedings initiated against the petitioner has got nothing to do with the payment of ex-gratia pension, this Court has taken note of the fact that even the surcharge proceedings against the petitioner has come to an end and it cannot also put against him to deny



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him the benefit of ex-gratia pension. In fact, the petitioner has sent several representations for which a reply dated 20.02.2018 was given by the third respondent assuring him that steps will be taken to consider his claim for ex-gratia pension. However, till this date, no such benefits have been extended to the petitioner.

7. In the light of the above, taking note of the fact that the petitioner retired on 30.06.2003 and till this date, he is not in receipt of pension, he is certainly entitled for extending the benefit of ex-gratia pension scheme formulated by the Government. Accordingly, this Writ Petition stands allowed and the respondents are directed to pay pension to the petitioner together with arrears of pension from 20.09.2010, the date on which the Government introduced ex-gratia pension vide G.O. Ms. No. 132 dated 20.09.2010. The arrears of such pension is directed to be paid to the petitioner together with interest at the rate of 6% per annum within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

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To

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- 1.The Principal Secretary,
State of Tamil Nadu,
Co-operation, Food & Consumer Protection (CC1) Department,
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Chennai – 600 009.
- 2.The Registrar of Co-operative Societies,
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