



W.P.(MD)No.2172 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2172 of 2023

R.UshajothiPackiaceli

... Petitioner

Vs.

1.The Joint Registrar/President of Public Personnel
of Co-operative Societies (PACCS),
Thoothukudi District.

2.The Deputy Registrar,
of Cooperative Societies,
Tiruchendur.

3.The President,
E.E.418, Arumuganeri Primary
Agricultural Co-operative Credit Society,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent dated 12.12.2022 bearing Na.Ka.No.4871/2022 sa.pa. and quash the same and to direct the first respondent to pass necessary orders enabling the third



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respondent society to settle all petitioner's retirement benefits such as provident fund, gratuity, earned leave salary amounts to the tune of Rs. 30,99,685/- with interest at the rate of 12% from 31.05.2022 to till the settlement of the petitioner's retirement benefits are settled in the light of her representation dated 07.06.2022.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.S.R.A.Ramachandran

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent dated 12.12.2022 and to quash the same and consequently direct the first respondent to pass necessary orders enabling the third respondent society to settle all petitioner's retirement benefits such as provident fund, gratuity, earned leave salary amounts to the tune of Rs. 30,99,685/- with interest at the rate of 12% from 31.05.2022 to till the settlement of the petitioner's retirement benefits, in the light of her representation dated 07.06.2022.



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2. The case of the petitioner is that she joined as Clerk in the third respondent Society in the year 1984, through employment exchange. Thereafter, she was promoted as Cashier in the year 1997 and further promoted as Assistant Secretary in the year 2008 and subsequently, she was promoted as Secretary in the year 2011. She retired from service in the year 2022. While so, the petitioner along with four others filed a writ petition in W.P.(MD)No.10235 of 2014, challenging the G.O.(Ms.).No.189, dated 17.11.2009. The said writ petition was allowed on 06.11.2019 and the order of the learned single Judge was also confirmed by the Division Bench of this Court in W.A.(MD).No.452 of 2012 and directed the respondents to calculate the arrears and pay the amount to the petitioner together with interest at the rate of 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order. Based on the above direction, a representation has been made by the petitioner to the Joint Registrar of Co-operative Societies.



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3. While so, M.Chenthur as well as T.Maragathavel had been allowed to retire on 31.05.2018 and 31.05.2019 respectively and all the retirement benefits had been settled to them. But, in her case, at the verge of retirement, a mail had been sent by the first respondent on 31.05.2022, stating that a writ appeal had been preferred against the order passed in W.P.(MD).No.10235 of 2014 in W.A.SR.(MD)No.33628 of 2021 and hence, she was not allowed to retire from service and the terminal benefits were also not paid to her. Hence, the petitioner has made a representation to the first respondent on 07.06.2022. Since the said representation has not been considered, the petitioner has filed a writ petition in W.P.(MD).No.13607 of 2022, seeking retirement benefits and the same was ordered on 12.08.2022, to consider her representation dated 07.06.2022. For which, the first respondent has sent a reply on 12.12.2022, stating that due to pendency of the case in W.A.(SR)No.33628 of 2021, the relief sought for by the petitioner cannot be granted. Challenging the same, the present writ petition has been filed.



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4. The learned counsel appearing for the petitioner would submit that, a sum of Rs.4,11,144/- was allegedly paid excess to the petitioner, however, the petitioner is entitled to get the balance amount and without paying the balance amount, withholding the entire amount is not sustainable one. Hence, this Court may issue a direction to the first respondent to withhold a sum of Rs.4,11,144/- within a period of six weeks and disburse the balance amount to the petitioner within a reasonable time as fixed by this Court and if the respondents failed to number the writ appeal within a period of six weeks and obtained a restrained order as against the petitioner, the withhold amount may be disbursed in favour of the petitioner.

5. The learned Additional Government Pleader appearing for the respondents has no serious objection.

6. Considering the facts and circumstances of the case, admittedly, the respondents claimed that excess amount of Rs.4,11,144/- was paid to the petitioner, thereby withhold the entire terminal benefits of the petitioner,



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which is not sustainable one. Hence, this Court directs the first respondent to withhold a sum of Rs.4,11,144/- for a period of eight weeks, to enable the Society to number the writ appeal and get a restrained order and the balance amount should be disbursed to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. If the Society not obtained any restrained order as against the petitioner, in the said writ appeal, the respondent Society is directed to pay the withhold amount of Rs.4,11,144/- within a period of ten weeks from the date of receipt of a copy of this order with applicable interest.

7. With the above directions, this Writ Petition is disposed of. No costs.

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NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

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