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W.P.(MD)No.1756 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1756 of 2019

R.Udhayakumar

... Petitioner

vs.

The Managing Director,
Southern Railway Employees Co-operative
and Credit Society Limited,
P.B.No.9, Dindigul Road,
Tiruchirapalli-620 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the respondent given as reply notice, dated 11.12.2017, through his counsel and to quash the same, dated 11.12.2017 and consequently, to direct the respondent to settle the balance of retirement benefits to the petitioner with interest immediately.

For Petitioner : Mr.R.Devaraj
For Respondent : No appearance



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ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned proceedings of the respondent given as reply notice, dated 11.12.2017, through his counsel and consequently, to direct the respondent to settle the balance retirement benefits to the petitioner with interest immediately.

2. The petitioner was employed under the respondent Credit Society and retired on 31.01.2017. The respondent has settled the gratuity and other terminal benefits to the petitioner. However, the claim of the petitioner is that the 7th pay commission came into existence with effect from 01.01.2016. Since the petitioner has retired from service on 31.01.2017, the petitioner is claiming to give effect for the 7th pay commission to the petitioner's scale of pay. The petitioner has issued a legal notice dated 27.11.2017 to the respondent and the respondent has replied through an advocate, vide reply notice, dated 11.12.2017.

3. The petitioner has challenged the reply notice issued by the respondent.



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A writ petition cannot be filed challenging the reply notice and the reply notice cannot be quashed. However, the claim of the petitioner is that the 7th pay commission was not included in the scale of pay of the petitioner. In the reply notice, there is no answer to the same. Hence, this Court is remitting the case back to respondents to consider the issue whether the petitioner is eligible for pay under 7th pay commission. The petitioner is granted liberty to submit a representation along with the order of this Court. Thereafter, the respondent shall consider and pass orders within a period of four weeks from the date of receipt of a copy of this order.

4. With the above said observation, the writ petition is disposed of. No costs.

Index : Yes / No
Internet : Yes
NCC : Yes / No

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