



W.P.(MD)No.14890 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.14890 of 2020

R.Elangovan

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Thanjavur District,
Thanjavur.

2.The Deputy Registrar of Co-operative Societies,
Pattukottai,
Thanjavur District.

3.The President
T1521, Paingal Primary Agricultural Co-operative
Credit Society Limited,
Peravurani Taluk,
Thanjavur District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents to disburse the retirement benefits of the petitioner including his earned leave encashment and gratuity by considering the petitioner's representation dated 11.09.2020.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondents to disburse the retirement benefits of the petitioner including his earned leave encashment and gratuity by considering the petitioner's representation dated 11.09.2020.

2. The learned counsel appearing for the petitioner submitted that the petitioner initially joined as Attender in the third respondent Society in



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the year 1979. After holding several posts such as Clerk and Senior Clerk, he was promoted as Secretary in the third respondent Society in the year 1996. In all these years, he rendered his duties with utmost dedication and to the satisfaction of the superiors without any remarks. The preliminary function of the third respondent Society is to auction the pledged jewels of the defaulters. Accordingly, the jewels of the defaulters, who has borrowed loans during the year 2015-2016 were auctioned in the year 2018 and the said auction was conducted by the third respondent Society by following all the procedures as mandated by the Rules. However, the second respondent being dissatisfied with the final audit report of the year 2018 by his proceedings, dated 02.12.2019 initiated inspection under Section 82 of the Tamil Nadu Co-operative Societies Act alleging that a loss to the tune of Rs. 9,46,881/- is caused to the Society. Thereafter, an Enquiry Officer was appointed and the petitioner had appeared before the authority and submitted his explanation. However, the Enquiry Officer submitted his final report before the second respondent and the same is pending for further action. In the mean while, he attained the age of superannuation on 30.04.2020, however, the first respondent suspended the petitioner from



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service at the verge of retirement and not allowed to retire the petitioner and on the same day, the first respondent issued a charge memo alleging that the petitioner had failed in his duty to collect the debts of the loans of the third respondent Society within the time. Thereafter, the petitioner made a representation, dated 11.09.2020, to disburse the terminal benefits and the same was not considered. Hence, the present writ petition is filed with the aforesaid prayer.

3. The learned counsel for the petitioner further submitted that this Court may issue a direction to the respondents to consider the petitioner's representation for disbursement of the eligible terminal benefits to the petitioner within a time.

4. Per contra, learned Additional Government pleader appearing for the respondents submitted that for the lapses committed by the petitioner, 82 enquiry was initiated. After receiving 82 enquiry report, 87 surcharge proceedings were initiated against the petitioner, in which, the authority had passed an order, dated 09.11.2020 for a sum of Rs.12,44,165/-.



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As against the order passed by the original Authority, the petitioner preferred a statutory appeal before the District Court/Co-operative Tribunal, in C.M.A.No.4 of 2021 on the file of the District Court, Thanjavur and the same was dismissed. Against which, the petitioner preferred a Civil Revision before this Court in C.R.P.(MD)No.2644 of 2022 and the same is pending for adjudication. However, after deducting the surcharge amount with interest, the balance amount will be disbursed to the petitioner.

5. In view of the submission made by the learned counsel for the petitioner and considering the limited request made by the petitioner and the submission made by the learned Additional Government Pleader, this Court inclined to issue the following directions :

- i) The respondent Society is directed to withhold the surcharge amount with applicable interest and the balance amount is directed to be disbursed in favour of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.



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6. With the above direction, the writ petition is disposed of. No costs.

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

RM



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M.DHANDAPANI,J.

RM

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