



W.P.(MD).No.18386 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18386 of 2020
and WMP(MD)Nos.15824 and 15825 of 2023

M.Mohamed Musthafa

... Petitioner

Vs

1. The Deputy Registrar,
Co-Op. Societies, Main Rd, Thucklay,
Kanyakumari District.
2. The Special Officer,
No. Y-25, the Manikkavilai Primary
Agriculture Co-Op Credit Society Ltd.,
Manalikkarai- 629164, Kanyakumari District.
3. The Secretary,
No. Y-25, the Manikkavilai Primary
Agriculture Co-Op Credit Society Ltd.,
Manalikkarai- 629164, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to disburse the amount of Rs.76,800/- (Rupees Seventy Six Thousand and Eight Hundred Only), which was collected from the petitioner salary towards the penalty of alleged misappropriation of funds, to the petitioner with interest and



W.P.(MD).No.18386 of 2020

further direct the respondents to disburse the Earned Leave Salary for remaining 210 days, to the petitioner, which the petitioner is entitled for, within the time stipulated by this Court.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.N.Muthu Vijayan (R1)
Special Government Pleader

No Appearance – R2 & R3

ORDER

The present writ petition has been filed seeking a direction to the respondents to disburse the amount of Rs.76,800/- (Rupees Seventy Six Thousand and Eight Hundred Only), which was collected from the petitioner's salary towards the penalty of alleged misappropriation of funds, to the petitioner with interest and further direct the respondents to disburse the Earned Leave Salary for remaining 210 days, to the petitioner, to which he is entitled for, within the time stipulated by this Court.

2.Heard, Mr.C.Kishore, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents. Perused the materials on record.



W.P.(MD).No.18386 of 2020

WEB COPY

3.(i).The petitioner appointed as Peon on 17.11.1997 and worked as Office Assistant at Y-25 Manikkavilai Primary Agriculture Co-Operative Credit Society Limited. He retired from service on 28.02.2007.

(ii).While the petitioner was in service, certain allegation of misappropriation of funds were alleged against certain employees, including the petitioner. An enquiry officer was appointed for conducting statutory enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act'). Enquiry was conducted and report was also submitted, wherein, the petitioner was held liable for causing a loss to the tune of Rs.84,788/-. Pursuant to the same, surcharge proceedings under Section 87 of the Act was initiated by the first respondent and the petitioner was directed to pay the loss to the tune of Rs.84,788/- with interest. Assailing the said order, an appeal under Section 152 of the Act has been preferred by the petitioner before the Co-operative Tribunal, Nagercoil and the Tribunal by order dated 16.12.2003, upheld the order of the first respondent.

(iii)Challenging the same, the petitioner has filed a writ petition in WP(MD)No.10729 of 2005 before this Court and the same was allowed by this Court on 29.06.2011. In furtherance to the order, the petitioner approached the respondents by way of filing a detailed representation seeking his retirement



W.P.(MD).No.18386 of 2020

benefits, which was not heeded by the respondents. Therefore, the petitioner filed another writ petition in WP(MD)No.17752 of 2013, seeking to direct the respondents to disburse the terminal benefits of the petitioner. On 28.08.2014, this Court directed the respondents to disburse the terminal benefits of the petitioner. Since the same was not complied, the petitioner filed contempt petition in Cont.P(MD)No.526 of 2015. While the same was pending, an amount of Rs.1,15,609/- was paid to the petitioner as his terminal benefits, vide cheque bearing No.002205, dated 04.05.2015. On that basis, the said contempt was closed.

(iv).However, certain mistakes were found in the calculation memo made by the respondents, as a result, the petitioner came to know that Rs.76,800/- which was collected towards the penalty for the alleged misappropriation of fund from his salary and another amount, which was collected to a tune of Rs.800/- per month for about 8 years till the date of his retirement was not paid to him. Further, at the time of retirement, a sum of Rs. 8,240/- has been paid towards earned leave encashment, which is only for 30 days. The petitioner is entitled to receive leave encashment for the remaining 210 days. Therefore, the petitioner made a detailed representations on 23.03.2016 and 03.10.2020 seeking the respondents to disburse the aforesaid



W.P.(MD).No.18386 of 2020

Rs.76,800/- and EL encashment for the remaining 210 days and the same was not considered. Hence, this writ petition came to be filed.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

5. In view of the facts and circumstances of the case, this Court hereby direct the respondents to consider the representations of the petitioner, dated 23.03.2016 and 03.10.2020 and pass appropriate order in accordance with law, within a period of ten (10) weeks, from the date of receipt of a copy of this order.



W.P.(MD).No.18386 of 2020

WEB COPY

6. Accordingly, this writ petition stands disposed of. There shall be

no order as to costs. Consequently, connected miscellaneous petition is closed.

14.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The Deputy Registrar,
Co-Op. Societies, Main Rd, Thucklay,
Kanyakumari District.
2. The Special Officer,
No. Y-25, the Manikkavilai Primary
Agriculture Co-Op Credit Society Ltd.,
Manalikkarai- 629164, Kanyakumari District.
3. The Secretary,
No. Y-25, the Manikkavilai Primary
Agriculture Co-Op Credit Society Ltd.,
Manalikkarai- 629164, Kanyakumari District.



WEB COPY



W.P.(MD).No.18386 of 2020

L.VICTORIA GOWRI, J.

PNM

ORDER IN
W.P.(MD).No.18386 of 2020
and WMP(MD)Nos.15824 and 15825 of 2023

14.09.2023