

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.2280 of 2021

A.Saravanan,
Manager (Retired from Service),
The Salem Urban Co-operative Bank Ltd.,
No.25, 405, First Agraharam,
Salem-636 001,
Salem District.

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Petitioner

versus

- 1.The Joint Registrar of Co-operative Societies,
Collectorate Complex,
Salem Region,
Salem District.
- 2.The Circle Deputy Registrar,
O/o.The Deputy Registrar of Co-operative Societies,
Salem, Salem District.
- 3.The Deputy Registrar/Managing Director,
The Salem Urban Co-operative Bank Ltd.,
No.25, 405, First Agraharam,
Salem-636 001, Salem District.
- 4.The Salem Urban Co-operative Bank Ltd.,
No. 25, Rep by its President,
Salem, Salem District.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 17.11.2020 passed by the 3rd respondent and consequential impugned order made in Na.Ka.2646/2020 ThaVaSa dated 23.11.2020 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to disburse the petitioner's Encashment of Earned Leave Salary to a tune of Rs.2,67,552/- with interest.

For Petitioner	:	Mr.P.R.Prithviraj
For Respondent Nos.1 & 2	:	Mr.P.Sathish Additional Government Pleader
For Respondent Nos.3 & 4	:	Mr.L.P.Shanmugasundaram

ORDER

The petitioner has filed this writ petition, challenging the order passed by the third respondent dated 17.11.2020 and to direct the respondents to disburse the petitioner's encashment of earned leave salary with interest.

2. Heard Mr.P.R.Prithviraj, learned counsel for the petitioner and Mr.P.Sathish, learned Additional Government Pleader for the respondents 1 and 2 and Mr.L.P.Shanmugasundaram, learned counsel for the respondents 3 and 4 and perused the materials available on record.

3. Mr.P.R.Prithviraj, learned counsel for the petitioner submitted that the petitioner is entitled to the retiral benefits including the earned leave salary subsequent to his retirement. However, the petitioner got a communication from the second respondent on 29.07.2019 stating that his earned leave salary was deducted by virtue of an order dated 08.05.2001. Hence, the petitioner has given representations to the second respondent on 27.08.2019 and 06.09.2019. Without conducting any proper enquiry and without considering the petitioner's explanation, the third respondent has passed the impugned order dated 17.11.2020 stating that a sum of Rs.2,17,672/- has been deducted from the earned leave salary towards excess payment made to the petitioner. Aggrieved over the same, the petitioner has filed this Writ Petition.

4. Mr.P.Sathish, learned Additional Government Pleader for the respondents 1 and 2 submitted that the petitioner himself has given an undertaking at the time of his retirement stating that if any dues are found to be paid by him in any audit objection, he would repay the same. It is further

submitted that based upon his undertaking, the amount liable to be paid by the petitioner has been recovered from him.

5. It is a routine undertaking given by all the employees that any dues to be paid by them would be recoverable. The petitioner without being given any notice was put to surprise with the recovery order and thereafter, the impugned order has been passed by the third respondent. It is seen in the undertaking letter given by the petitioner dated 31.10.2018 that there is no figures stated as to the immediate liability accepted by the petitioner. In such case, the respondent ought to have given a copy of the proceedings which would show the dues to be paid by the petitioner.

6. In view of the same, the impugned order dated 17.11.2020 passed by the third respondent is set aside and the respondents are directed to issue a fresh notice to the petitioner in respect of the dues to be paid by him by showing break up figures as against each audit report and call for the explanation from the petitioner and then pass appropriate orders, on its own merits and in accordance with law, within a period of six (6) weeks from the

date of receipt of a copy of this order and this Writ Petition is **disposed** accordingly. No costs.

11.03.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Joint Registrar of Co-operative Societies,
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R.N.MANJULA, J.

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