



W.P. No.15634 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.15634 of 2011

and

M.P.Nos.1 & 2 of 2011

R.Narayanasamy

... Petitioner

Vs.

1.The Additional Registrar of
C-operative Societies,
Kilpauk, Chennai – 10.

2.The Chairman Common Cadre Authority/
Joint Registrar of Coop. Societies,
Tiruvannamalai Region, Tiruvannamalai.

3.The Special Officer,
H.H.463 Aruthirapattu Primary Agricultural
Co-op Credit Society,
Aruthirapattu Village & Post,
Tiruvannamalai Taluk,
Tiruvannamalai District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.31762/2011 Sa.Pa.1, dated 26.05.2011 and quash the same and



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consequently direct the respondents to promote the petitioner for the post of Secretary in the 3rd respondent society.

For Petitioner : Mr.C.Prakasam
For R1 & R2 : Mr.S.Ravikumar
Special Government Pleader (Co-op)
For R3 : Mr.P.K.Shivakumar

ORDER

This writ petition has been filed challenging the order passed by respondent No.1 dated 26.05.2011, whereby the punishment that was imposed on the petitioner by the 3rd respondent Society was confirmed.

2. The learned counsel for the petitioner submitted that, during the pendency of the present writ petition, the petitioner has already attained the age of superannuation and retired from service on 31.01.2014 in the post of Assistant Secretary and his terminal benefits were also settled except Employees Provident fund and the amount payable towards Encashment of unearned leave on private affairs and sought for appropriate directions for release such amounts. In support of his contention, he also placed reliance on Section 78 of Tamilnadu Cooperative Societies Act, 1983 and contended that the amount payable to the petitioner towards provident fund cannot be



attached. He also further submitted that the petitioner was also not paid salary for the period from 14.03.2007 to 30.06.2009 during which he worked as Assistant Secretary in the 3rd respondent and also sought for appropriate direction for the payment of such amount.

3. In light of restricted relief sought by the petitioner, and in view of change in circumstances, this Court is of the considered view that the writ petition can be disposed of without going into the merits of the matter.

4. Section 78 of Tamilnadu Cooperative Societies Act, 1983 reads as under:

“78. Provident Fund . — (1) A registered society not being an establishment to which the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act XIX of 1952) applies, may establish a Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the by-laws .

(2) A Provident Fund established by a registered society under sub - section (1) shall be invested in the financing bank, but shall not -



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*(a) be used in the business of the society;
(b) form part of the assets of the society;
(c) be liable to attachment or be subject to any other
process of any court or other authority.”*

5. The claim of the petitioner for arrears of salary for the period from 14.03.2004 to 30.06.2009 is concerned, the same has to be considered by the 3rd respondent by duly verifying the factual situation. So also the claim of the petitioner for payment of amounts towards encashment of unearned leave on private affairs is also a matter to be considered by the 3rd respondent.

6. In the circumstances, this writ petition is disposed of directing the 3rd respondent to consider the claim of the petitioner for payment of all the amounts that are due and payable to the petitioner towards provident fund, arrears of salary for the period from 14.03.2004 to 30.06.2009 as well as for payment of amounts towards encashment of unearned leave on private affairs and pass appropriate orders thereon within a period of eight (8) weeks from the date of receipt of a copy of this order. In case, if the petitioner is found entitled for any such amounts, the said amounts shall also be released within



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a time stipulated above.

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7. Accordingly, this writ petition is disposed of. The connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

To:

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