



W.P.No.25339 of 2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.08.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.25339 of 2012

The Tamil Nadu Water Supply & Drainage Board,
Employees' Cooperative Thrift & Credit Society, Trichy
Y.T.41 Represented by the Secretary-in-charge,
No.9, Officer's Colony, Puthur Chinna Maidan,
Puthur, Trichy – 600 017.

...Petitioner

Vs.

1.The Tamil Nadu Water Supply & Drainage Board,
Represented by its Managing Director,
No.31, Kamarajar Salai, Chennai – 600 002.

2.The Joint Chief Engineer (General),
Pension Section,
Head Office, TWAD Board,
No.31, Kamarajar Salai,
Chennai – 600 002.

3.M.Namis (Died)

4.Marry Hellan

5.Margrette William

6.Marry Lilly

...Respondents

(R4 to R6 are substituted as Lrs of deceased R3, as per order dated 22.02.2024 in WMP No.3532 of 2024 in WP.No.25339 of 2012 by JSNPJ)



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in its proceedings No.85611/LC/A2/2006 dated 28.08.2012, quash the same and consequently direct the 1st respondent to deduct Rs.11,70,153/- from the amount payable to the 3rd respondent towards retirement benefits.

For Petitioner : Mr.Karthick Rajan
for M/s.Karthik Mukundan

For R1 and R2 : Ms.S.Mekala

ORDER

Under the surcharge proceedings that were initiated at the instance of the petitioner herein by the Deputy Registrar of Co-operative societies, Trichy under the provisions of Tamil Nadu Co-Operative Societies Act, 1983, the Deputy Registrar of Co-operative societies fixed the liability on the 3rd respondent, who is the former president of the petitioner society and other directors in proceedings No.10639/90/Sa.Ba dated 28.01.1991 and another proceedings No.21393/90/Sa.Ba dated 27.03.1991 to the tune of Rs.1,17,000/- and Rs.2,83,000/- respectively with retrospective interest at the rate of 15 per cent and 19.5 per cent respectively. Out of the said Rs.4,00,000/- amount, an amount of Rs.2,40,974.60/- was paid by the 3rd respondent and others, during pendency of criminal proceedings against them thereby leaving a balance of Rs.1,59,025.40/- unpaid.



2. The dispute that arise for consideration in this writ petition is with regard to the amounts that were payable to the petitioner society by the 3rd respondent and others in terms of the above said surcharge proceedings dated 29.01.1991 and 27.03.1991. Basing upon an undertaking given by the respondent No.3, to recover the said amounts out of the terminal benefits payable to him, the petitioner herein made a claim for payment of the said amounts due to the petitioner under the above said two surcharge orders before the respondent board. The respondent board having considered the claim made by the petitioner herein passed the impugned order dated 28.08.2012, agreeing to recover an amount of Rs.1,59,025.40/- with 9 per cent simple interest and to remit the same to the petitioner society.

3. Aggrieved by the said order, the petitioner approached this Court by filing the present writ petition contending that the petitioner society is entitled for much more amounts than what is sought to be recovered for remitting to the petitioner society under the impugned proceedings. Whether, the amounts that are agreed to be recovered and remitted to the petitioner society to the tune of Rs.1,59,025.40/- is correct or not; Whether the calculations made by the respondent board are in accordance with surcharge proceedings referred to above or not etc; are all neither the matters that can be adjudicated by the respondent board nor by this Court. It is for the petitioner society to take



appropriate steps for recovery of the said amounts due to it, under the above said surcharge proceedings.

4. Today when the matter is taken up for hearing, it is brought to the notice of this Court by the learned counsel appearing for the respondent Board that the respondent No.3 is in all due to be paid only a sum of Rs.1,33,564.00/- towards his terminal benefits. In view of the same, the petitioner society can recover the said sum of Rs.1,33,564.00/- only but not any sum beyond that as the 3rd respondent is found to be entitled for only an amount of Rs.1,33,564.00/- towards the terminal benefits. In the light of the above, this Court is not inclined to adjudicate the matter further in detail as the liability of the respondent board cannot be enhanced beyond the sum of terminal benefits for which the respondent No.3 is otherwise entitled under law.

5. In the result, this writ petition is disposed of, directing the respondent board to remit an amount of Rs.1,59,400/- together with 9 per cent interest, if such an amount is due and payable to the respondent No.3, towards terminal benefits or any lesser sum for which, the respondent No.3 is otherwise entitled towards terminal benefits within a period of six (6) weeks from the date of receipt of copy of this order. For the balance claim if any subsisting of the petitioner society in terms of the above referred to surcharge orders, the society is at liberty to take appropriate steps in accordance with law. No costs.



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No

To

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2.The Joint Chief Engineer (General),
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Head Office, TWAD Board,
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NST

MUMMINENI SUDHEER KUMAR,J.



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