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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2024

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.5505 of 2019
and WMP.No.6257 & 22722 of 2019

P. Sivakumar

... Petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
Thiruvannamalai Circle,
Thiruvannamalai 606 604.

2. The President
Thiruvannamalai Revenue Divisional
Revenue Village Assistants Co-operative
Thrift and Credit Society Ltd., 751,
Thiruvannamalai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 1st respondent relating to Na.Ka.No.2996/2017 Sa.Pa.(Surcharge No.3/2018-19) sa.pa(1) dated 28.12.2018 to quash the same insofar as it relates to the petitioner.

For Petitioner ... Mr.K.Govindaraj

For Respondents ... Mr.S.Arumugam



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Government Advocate for R1
Mr.L.P.Shanmuga Sundaram for R2

ORDER

This writ petition has been filed to issue a Writ of Certiorari to call for the records of the 1st respondent relating to Na.Ka.No.2996/2017 Sa.Pa.(Surcharge No.3/2018-19) sa.pa(1) dated 28.12.2018 and to quash the same insofar as it relates to the petitioner.

2. Heard both sides and perused the materials available on record.

3. In the affidavit filed in support of the writ petition, the writ petitioner has stated that he had joined as a Clerk in the said society on 03.05.2004 on daily wage basis. The wages was revised periodically and later he was paid consolidated monthly pay of Rs.4,000/- p.m. He was then appointed as Secretary on and from 01.01.2007 and brought into time scale of pay. By proceedings dated 12.10.2009 he was then appointed as Secretary, holding Additional Charge of Thiruvannamalai Railways Employees Co-operative Thrift and Credit Society. The monthly pay was raised by a resolution dated 30.07.2011. It was again revised and further raised. He was then appointed as Secretary of Thiruvannamalai District



Central Co-operative Employees Co-operative Thrift and Credit Society

WEB COPY Ltd., Thereafter his pay scale was also regularised and was fixed. A settlement had been reached under Section 12(3) of the Industrial Disputes Act, 1947 between the Society and the Employees Union before the Conciliation Officer/ Labour Officer at Vellore on 03.02.2016 to give effect to the fixation of pay to the petitioner. It is stated that the petitioner had been receiving the salary thereafter. Notice had been issued under Section 87(1) of the Tamil Nadu Cooperative Societies Act, 1983 to the petitioner, to the President of the Society, to the Vice President of the Society and nine other members of the Board of Management alleging that pay had been irregularly fixed and that a sum of Rs.13,03,693/- had been paid unlawfully to the petitioner and directing that the said amount should be recovered from all the persons to whom the notice was directed. Questioning such notice, the present writ petition has been filed.

4. The learned counsel for the petitioner pointed out that the pay has been fixed only in accordance with settlement deed under Section 12 (3) of the Industrial Disputes Act, 1947 and that therefore the petitioner should not be made liable to return the salary which had been paid to him in accordance



with the settlement and in recognition of the fact that he had been discharging services as Secretary of the Society and also holding additional post as Secretary of an other Society.

5. But, however it is contended on behalf of the respondents that it is a notice issued under Section 87(1) of the said Act and the petitioner will have to give his explanation and necessary enquiry has to be conducted as contemplated. It can only be termed as a show cause notice, the petitioner had also given an explanation. Now the respondents will have to examine the show cause and compare the same with the explanation given by the petitioner and proceed further with the enquiry in the manner known to law.

6. Till the completion of the enquiry, let there not be any recovery of the salary as demanded by the respondents. The petitioner may participate in the enquiry and he may direct any documents to be produced since under Section 87 (4) of the Act during the enquiry, the enquiry officer has every power to summon documents, summon witnesses and to examine all records. The petitioner may therefore be granted full and fair opportunity during the enquiry process.



7. Recording the above, the writ petition is disposed of. No costs.

Consequently connected miscellaneous petitions are also closed.

12.11.2024

Internet: Yes/No
dpq

To

1. The Deputy Registrar of Co-operative Societies,
Thiruvannamalai Circle,
Thiruvannamalai 606 604.
2. The President
Thiruvannamalai Revenue Divisional
Revenue Village Assistants Co-operative
Thrift and Credit Society Ltd., 751,
Thiruvannamalai.



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C.V.KARTHIKEYAN, J.

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