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W.P.No.11544 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.11544 of 2023

P.K.Mani

...Petitioner

Vs.

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2. The Deputy Commissioner of Labour,
Vellore.

3. The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai.

4. The Revenue Inspector,
Tiruvannamalai (South) Firka,
Tiruvannamalai.

5. The Secretary,
H.H.583, Primary Agriculture Co-operative Credit Society,
Nallavanpalayam,
Tiruvannamalai Taluk.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the third and fourth respondent to recover a sum of Rs.1,84,942/- together with 15% interest thereon from the fifth respondent, as ordered by the first respondent by his order dated 05.05.2022.

For R1 to R4 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader
For R5 : Mrs.G.V.Seethalakshmi
for Mr.E.Vijay Anand

ORDER

This writ petition is filed seeking for a mandamus to direct the third and fourth respondent to recover a sum of Rs.1,84,942/- together with 15% interest thereon from the fifth respondent, as ordered by the first respondent dated 05.05.2022.

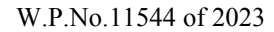
2. The petitioner was appointed in the fifth respondent society on 27.01.1979. In the year 2004, basing on the audit report an enquiry was conducted wherein it was found that the petitioner has issued loans to the members of the society over and above their eligibility. Based on the enquiry report, surcharge proceedings were issued against the petitioner under



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Section 87 of the Tamil Nadu Co-Operative Societies Act and finally orders were passed for Rs.4,68,769/-. In the mean while on 31.12.2007, the petitioner retired from service on attaining the age of superannuation. The petitioner has requested the fifth respondent to grant him terminal benefits. But the same was not released on the ground that surcharge proceedings were pending against the petitioner.

3. The petitioner has filed P.G.No.35 of 2016 before the Controller, Assistant Commissioner of Labour, under payment of Gratuity Act, Vellore, however, the same was dismissed holding that the surcharge proceedings were pending against the petitioner. Aggrieved by the same, the petitioner preferred an appeal before the Additional Commissioner of Labour, Chennai, and the said appeal was allowed in PGA No.158 of 2017 by order dated 22.06.2018. Similarly, challenging the surcharge proceedings, the petitioner filed an appeal before the Principal District and Sessions Court, Tiruvannamalai in Co-Operative Appeal No.15 of 2018 and the same was allowed on 07.02.2019 and the surcharge proceedings were set aside.



5. The learned counsel for the fifth respondent is present and submitted that the principal amount has already been paid to the petitioner and that the directions to recover the rate of amount with 15% interest is not proper as the interest awarded is in excess of what should have been granted. However, nothing is placed before this Court as to how the petitioner is not entitled for interest at the rate of 15% for belated payments. It is a settled legal proposition that an employee is entitled for interest for belated retiral benefits including gratuity.



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6. The learned Additional Government Pleader representing the first to fourth respondents has submitted that as per the directions of the first respondent, the third and the fourth respondents will take steps to recover the dues from the fifth respondent under the Revenue Recover Act.

7. In view of the above, this writ petition is allowed directing the respondents one to take steps for recovery of gratuity from the fifth respondent by following due process under Revenue Recovery Act as quickly as possible not later than twelve weeks from the date of receipt of a copy of this order. No costs.

04.04.2024

vca

Index : Yes/No
Internet : Yes/No
Citation : Yes/No



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