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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.07.2024

Pronounced on : 29.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12665 of 2024 and
WMP.No.13821 of 2024

P.Jayaraman ... Petitioner

Vs.

1.The Registrar of Cooperative Societies,
170, N.V.Natarajan Maligai, E.V.R.Periyar High Road,
Kilpauk, Chennai 600 010
2.The Joint Registrar of Cooperative Societies,
Salem Region, Salem-1
3.The Deputy Registrar of Cooperative Societies,
Athur, Salem District 636 102
4.The Special Officer,
S1432, Thalaivasal Panchayat Union
Employees & Teacher Cooperative
Thrift & Credit Society,
Thalaivasal 636 112 ... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent passed in Na.Ka.2642/ 2023 துதி dated 07.02.2024 and to quash the same insofar as it restricts the arrears of salary to be paid to the petitioner from 01.04.2010 to be fixed notionally

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and consequently direct the respondents 3 and 4 to fix the scale of pay of the petitioner as Secretary of the 4th respondent from 01.07.2009 and pay the monetary benefits from 01.04.2010 as per Resolution Nos.23 and 24 dated 30.12.2023 passed by the 4th respondent.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 07.02.2024 thereby fixed pay band of the petitioner notionally from 01.07.2009 on certain conditions.

2. The petitioner was appointed as Assistant in the fourth respondent Society and subsequently promoted to the post of Secretary from 08.08.2008. His appointment to the post of Secretary was ratified by the third respondent by the communication dated 23.05.2016. The petitioner is receiving salary at Rs.6500-200-10500 as per GO.Ms.No.89 dated 14.05.2000. As per the circular issued by the first respondent dated 07.12.2010 thereby ordered to refix the salary of the workers employed

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in various cooperative societies in Tamilnadu and also issued guidelines. However, there was no proposal sent for the post of Clerk to make permanent. The clerk, one, Periasamy died in the month of November 2018 and even then, no one was appointed to the said post. The salary of the petitioner was not fixed and he was drawing the very same scale of pay since there was no Board of Directors.

2.1 Only on 09.04.2018, the Board of Directors had taken charge and the third respondent by its communication dated 04.12.2018, directed all the Sub Registrars and Field Inspectors to take steps to submit necessary forms to the approval of Deputy Registrar. As per the proceedings of the first respondent dated 08.11.2018, new scale of pay has to be fixed from 01.01.2017 and monetary benefits are to be paid from 01.07.2018. According to the petitioner, he is also eligible to be fixed in time scale from 01.07.2009 and monetary benefits from 01.04.2010. However, there was no reply from the third respondent. Therefore, the petitioner submitted representation to the fourth respondent seeking fixation of his salary as per the circular issued by the

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first respondent. Thereafter, the fourth respondent had sent revised proposal to the third respondent enclosing the resolutions dated 30.12.2023 to fix his scale of pay from 01.07.2009 and monetary benefits from 01.04.2010. The said proposal was considered by the third respondent and passed order dated 07.02.2024 thereby fixed pay scale only notionally and not with monetary benefits.

3. Heard, the learned counsel appearing on either side.

4. On perusal of the counter filed by the third and fourth respondents and on hearing the submissions of the learned Government Advocate appearing for the respondents, revealed that the petitioner was appointed as Clerk on 18.05.1999 on daily wage basis by the erstwhile Board of Directors without reference to employment. Subsequently his service was regularised with effect from 12.03.2001. By the proceedings dated 10.07.2008 on the file of the second respondent, permission was given to fix time scale to the petitioner as per GO.No.89 Cooperation, Food and Consumer Protection Department dated 16.05.2000 notionally

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from 01.04.2001 and financial effect from 01.09.2007. Subsequently the petitioner was promoted to the post of Secretary on 08.08.2008 without getting departmental permission. Therefore, the pay for promotion to the post of Secretary was objected by final audit. However, subsequently it was ratified by the third respondent on 23.05.2016. However, the petitioner did not take any steps to revise his pay as per the circular dated 07.12.2010 on the file of the first respondent. He made request only on 01.04.2018 seeking revision of his pay scale from 01.07.2009. On receipt of the proposal sent by the third respondent, it was examined with reference to financial soundness and the promotion of the petitioner was being ratified only during the year 2016 and sanctioned pay to the petitioner in the post of Secretary which amount to Rs.4.75 lakhs. It was objected in final audit report.

5. That apart, it will drastically affect the financial stability of the society. Further, the society had submitted pay revision proposal after lapse of fifteen years. After long delay, the petitioner is now seeking for arrears for fourteen years. Therefore, it was ordered that the pay shall be

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revised from 01.07.2009 and the monetary benefits shall be provided from the date of ratification of promotion to the post of Secretary. That apart, the petitioner failed to avail revisional remedy as contemplated under Section 153 of the Tamilnadu Cooperative Societies Act with regard to disbursement of monetary benefits. Therefore, this Court finds no infirmity or illegality in the impugned order passed by the third respondent. As such, this writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

29.07.2024

Neutral Citation:Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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