



W.P.No.27802 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.07.2024**

CORAM

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

W.P.No.27802 of 2014

R.Rajamani

... Petitioner

-VS-

1.The Registrar of Co-operative Societies,
(Housing), Nandanam,
Chennai – 600 035.

2.The President / Special Officer,
Chengam Taluk Co-operative
Housing Society Ltd., NAHSG41
Chengam,
Thiruvannamalai District.

3.The Deputy Registrar (Housing),
Vellore Region, Vellore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the first respondent in



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Na.Ka.No.5817/2012/Sa.Pa.1 dated 08.09.2014 and to quash the same and consequently direct the second respondent to settle the terminal benefits of the petitioner.

For petitioner : Mr.S.Sairaman

For respondents : Mrs.Geetha Thamaraiselvan,
Special Government Pleader

ORDER

The above writ petition has been filed for a certiorarified mandamus to quash the order dated 08.09.2014 passed by the first respondent and consequently direct the second respondent to settle the petitioner's terminal benefits.

2. By the impugned order, the first respondent had confirmed the order passed by the second respondent.

3. It is the case of the petitioner that he was working as a Clerk in the second respondent society from the year 1974, he was



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promoted as the Secretary on 11.05.1983 and then, he got reverted to the post of Supervisor from 01.07.2006 and he was due to retire on 31.07.2012.

4. The petitioner would submit that he had requested the second respondent management to make necessary arrangement to disburse his terminal benefits as he was to retire on 31.07.2012. The petitioner would submit that he had received an order from the second respondent stating that he would not be allowed to retire, but, he would be relieved, subject to the outcome of the criminal case and domestic enquiry pending. The petitioner would submit that there is no provision under the Co-operative Societies Act to retain an employee under service after he has superannuated. The petitioner would submit that a vigilance case was lodged against him by the Director of Vigilance and Anti-Corruption and he was imposed a year's imprisonment by the competent Court. As against the same, he had preferred an appeal and he had got suspension of the sentence



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and obtained bail. In fact, the petitioner had continued in the service of the society after the order of suspension.

5. Against the order of the second respondent not allowing him to retire, the petitioner had preferred a revision petition before the first respondent. The first respondent had also, without considering the case of the petitioner, rejected his revision petition. In fact, though he had preferred the revision petition in the year 2012, the first respondent had not taken up the matter for consideration which constrained the petitioner to approach this Court. This Court had directed the first respondent to dispose of the revision petition within a period of eight weeks from the date of receipt of a copy of that order. However, the first respondent did not comply with the said order.

6. The petitioner had issued a legal notice on 19.07.2014 to the first respondent informing him that if he does not proceed with



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the enquiry, then, the petitioner would be constrained to initiate contempt proceedings. Thereafter, the first respondent had woken up and dismissed the revision petition filed by the petitioner challenging which the petitioner is before this Court.

7. The grievance of the petitioner is that the provisions of the Co-operative Societies Act do not give authority to the society to retain an employee in service beyond the date of his superannuation. Therefore, the petitioner is deemed to have retired on 31.07.2012. Till date, the petitioner's terminal benefits have not been disbursed to him. Further, the criminal case in which the petitioner had been convicted and sentenced to undergo imprisonment had been suspended by the Competent Court and bail had also been granted to him.

8. No counter has been filed on the side of the respondents.



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9. This Court, by a judgment dated 04.09.2017, had allowed the criminal appeal in CA.No.243 of 2007 and acquitted the petitioner from the charges. This Court, while acquitting the petitioner, had observed that the charges framed against the petitioner on illegal gratification had not been proved, particularly, since the respondents had failed to examine one Rajendiran who is said to have processed the loan accounts. This Court had also found fault with the respondents for not having produced the receipts which would show when the illegal gratification was demanded by the petitioner. The learned Judge had also found Ex.P.16 – the unsigned minutes of the society to have been manipulated. Therefore, the ground on which the petitioner was not permitted to retire from service has been held to be illegal.

10. That apart, by a letter dated 27.06.2024, the second respondent had addressed the third respondent to release the amount



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of Rs.2,14,454/- to the petitioner in the light of the judgment dated 04.09.2017 of this Court which acquitted him from the charges framed against him.

11. Therefore, the impugned order passed by the first respondent has to be set aside. The petitioner had filed an additional affidavit, in which, he has stated that the following amounts have not been paid to him.

<i>Fund</i>	<i>Amount</i>
Retirement Gratuity	Rs.5,05,312/-
EP Fund (Society's Contribution)	Rs.7,25,446.75/-
Pay for regularisation of suspension period	Rs.3,81,530/-
Leave Salary Due as on 31.07.2012	Rs.77,403/-
Total	Rs.16,89,691.75/-

This fact is also admitted by the learned Special Government Pleader appearing for the respondents.



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Therefore, in the above circumstances, this writ petition is allowed as prayed for and the amounts shall be disbursed to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa

To

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P.T.ASHA, J.,

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