



W.P.No.25923 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.25923 of 2021

K.M.Loganathan

... Petitioner

/vs/

1.The Managing Director
Tamil Nadu Co operative Milk Producers Federation,
“Aavin Illam”
3A Muthu Ramalinganar Salai,
Nandanam, Chennai – 600 035.

2.The Director/Commissioner,
Milk Producers Federation and Dairy Development,
Madhavaram Milk Colony,
Madhavaram, Chennai – 600 051.

3.The General Manager,
Erode District Co operative Milk Producers' Union,
Srivasavi College Post,
Erode – 638 316.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India
to issue a writ of mandamus to direct the respondents to pay interest on
belated payment of terminal benefits which was payable on 31.07.2005 and



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paid a sum of Rs.3,50,000/- towards DCRG on 30.04.2021, Leave Encashment Rs.2,99,503/- on 11.05.2021 and Ex-gratia pension payment Rs.1,92,356/- on 03.06.2021 and superannuation fund to a tune of Rs.18,309/- paid on 03.06.2021 based on the representation of the petitioner dated 14.08.2021.

For Petitioner ... Mr.A.Jayachandran

For Respondents ... Mr.U.Baranidharan for R1 and R3

Mr.K.H.Ravikumar,
Government Advocate for R2

ORDER

Heard Mr.A.Jayachandran, the learned counsel for the petitioner, Mr.U.Baranidharan, the learned counsel for R1 and R3 and Mr.K.H.Ravikumar, the learned Government Advocate for R2.

2. The petitioner has filed this writ petition seeking a writ of mandamus directing the respondents to pay interest on the belated payment of terminal benefits which was payable on 31.07.2005.



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3. The petitioner who was working as “Manager” with the third respondent was facing criminal, disciplinary and surcharge proceedings and enquiry was conducted under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. Even if the criminal and disciplinary proceedings were dropped, surcharge proceedings were pending against the petitioner and he was permitted to retire though he attains superannuation on 31.07.2005 and his terminal benefits were also withheld. Even though the proceedings have been initiated in the year 2005 itself, no orders have been issued in the surcharge proceedings. Hence the petitioner has filed this writ petition in W.P.No.30936 of 2005 to quash the pending surcharge proceedings.

4. In the said writ petition, this Court has observed that without conducting the enquiry under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, liability cannot be fixed and hence terminal benefits cannot be withheld *sine die*. For a better clarity, the relevant part of the order is extracted hereunder:

“ 5. *I do not find any independent and specific reason against the petitioner for issuance of surcharge proceedings. Only*



on the basis of audit objections, the petitioner cannot be held responsible. Unless an enquiry was conducted as contemplated under Section 87 of the Act and liability is fixed against him, the terminal benefits cannot be withheld 'sine dine'. The delay by itself vitiates the proceedings and it is also violative of principles of natural justice. Withholding the terminal benefits for a period of 15 years itself is a grave punishment. Since the respondents are not in a position to complete the proceedings, even after 15 years of the petitioner's retirement, they are not entitled to continue the same any further and they cannot withhold the terminal benefits payable to him any further. In that view of the matter, the impugned proceedings dated 29.07.2005 passed by the first respondent stands vitiated on account of delay and accordingly quashed. The respondents are directed to disburse all the terminal and monetary benefits to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order."

5. As the delay itself violates the principal justice, a direction has been given to disburse all the terminal and monetary benefits to the petitioner within a period of twelve weeks.

6. Despite the terminal benefits have been paid to the petitioner on 30.04.2012, 11.05.2021 and 03.06.2021 respectively, the petitioner claims



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interest for the delay involved in making payment. Since no reason has been stated for the delay in disbursing the terminal benefits and the petitioner is also in no way responsible for the delay occurred in payment, I feel the respondents are liable to pay interest at the rate of 6%.

7. Accordingly, this Writ Petition is allowed and the respondents are directed to pay the petitioner the interest for the belated payment of terminal benefits at the rate of 6% from the date of receipt of a copy of the order made in W.P.30936/2005 dated 10.02.2020 till the date of payment, within a period of six weeks from the date of receipt of a copy of this order. No costs.

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Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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R.N.MANJULA ,J.

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