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W.P.Nos.34843 of 2023, etc.batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

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

W.P.Nos.34843 to 34846, 34848 to 34851, 34853 to 34855, 34858 &
34860 of 2023 and WMP.Nos.34852 & 34854 of 2023

WP.No.34843 of 2023

L.Kumar

Vs.

...Petitioner

- 1.Union Territory of Puducherry,
Represented by the Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Beach Road,
Puducherry 605 001
- 2.The Managing Director,
Pondicherry State Weavers Co-operative Society,
Industrial Estate,
Thattanchavadi,
Puducherry 605 009
- 3.The Registrar of Cooperative Societies
Cooperative Department,
Government of Puducherry,
D-Lane, VVP Nagar,
Thattanchavadi,
Puducherry 605 009

...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying



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to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent relating to Pu.Ma.Ne.Koo.Sa/Nirvagam/A1/7232/2022 dated 17.05.2022 and to quash the same as illegal, null and void and further direct them to disburse the retirement benefits due to the petitioner.

For Petitioner
in all WP's : Mr.S.Sudarshan

For Respondents : Mr.R.Sreedhar,
in all WP's Additional Government Pleader
(Pondy)

COMMON ORDER

These writ petitions have been filed challenging the order passed by the second respondent dated 17.05.2022, thereby denied the encashment of earned leave.

2. The petitioners are the erstwhile employees under the second respondent. They had retired from their respective services from the year 2013 to 2018. However, they were not paid encashment of earned leave and contribution made towards Cooperative Thrift Society constituted under the second respondent. On the request made by the petitioners, the third respondent passed the order dated 14.01.2020 stating that as per the guidelines and directions dated 14.01.2020 notwithstanding anything contained to the



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contrary in the registered bye-laws and / or approved subsidiary regulations, no employee of any cooperative society shall henceforth claim for encashment of earned leave as a matter of right at the time of quitting from service of the society. However, subject to financial viability, availability of funds and within the prescribed maximum limit, the committee of management of the societies may allow their employees to surrender and encash their earned leave only at the time of quitting from the services of the society. Based on the order passed by the third respondent, the second respondent passed the impugned order and stated its viability to pay the encashment of earned leave to the petitioners. Further, directed the petitioners to approach the third respondent for the contribution made by them.

3. The learned counsel for the respondents would submit that without challenging the order passed by the third respondent, the petitioners have challenged the order passed by the second respondent. That apart, any dispute arises between members of the society, the members have to raise dispute under Section 84 of Puducherry Cooperative Societies Act. Therefore, the writ petitions itself are not maintainable.



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

5. On perusal of impugned order dated 17.05.2022 revealed that the petitioners made contribution to the third respondent Society from their salary. Therefore, the petitioners are directed to approach the Cooperative Thrift Society for their claim on their contribution made during their services. Insofar as the encashment of earned leave is concerned, they are entitled to claim subject to financial viability and availability of funds. The guidelines issued by the third respondent is also clear that no employee of any cooperative society shall henceforth claim for encashment of earned leave as a matter of right at the time of quitting from service of the society, dated 14.01.2020. Therefore, the guidelines are not effected retrospectively and it would be with effect from 14.01.2020. Admittedly, the petitioners were retired from their services during the years 2013 to 2018. Therefore, their claim of encashment of earned leave cannot be rejected on the ground that they cannot claim as a matter of right.

6. Therefore, the impugned order dated 17.05.2022 is set aside insofar as the rejection of encashment of earned leave alone. The second respondent is directed to disburse the earned leave salary to the petitioners



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who retired from their respective services from the year 2013 to 2018 within a period of twelve weeks from the date of receipt of copy of this order.

7. With the above direction, all the writ petitions stand partly allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

02.01.2024

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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To

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