



WP.(MD).No.6070 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6070 of 2024

and

W.M.P.(MD)No.5714 of 2024

R.Kamalakkannan

... Petitioner

Vs.

1.The Registrar of Co operative Societies (Housing),
Veppery, Chennai.

2.The Regional Deputy Registrar of
Cooperative Societies (Housing),
Thanjavur, Thanjavur District.

3.Thirubuvanam Cooperative House Building,
Society Lt., X.857,
Rep. By its Special Officer,
Thirubuvanam-612 103.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to grant terminal benefits, gratuity and EPF payable to the petitioner within a period stipulated by this Court.

For Petitioner : Mr.M.Gnana Guru Nathan

For Respondents 1 & 2 : Mr.R.Ragavendran

Government Advocate



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ORDER

WEB COPY By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself. Considering the nature of the case, notice to the third respondent is dispensed with.

2.This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to direct the respondents 1 and 2 to grant terminal benefits, gratuity and EPF payable to the petitioner.

3.The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

(i)The petitioner was appointed as an Attendar in the third respondent Housing Society by the proceedings of the third respondent Society dated 14.12.1995. While so, due to non availability of funds in the third respondent Society, the petitioner was not paid with salary for a period of 28 months in 2009-2012 to the tune of Rs.2,00,913/-. In this regard, the petitioner had sent a letter on 12.01.2018 to the second respondent to disburse the said arrears of the salary. The petitioner's salary is Rs.6,890/- per month. The second respondent had given a report dated 29.01.2018 to the first respondent that the third respondent



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Society owns property worth more than Rs.1.5 Crores and the third respondent can be run by securing funds from the said properties even if the Government is not providing funds for running the same.

(ii)In the meanwhile, the Society came to be wound up. Thereafter, the petitioner submitted several representations to the second respondent to provide him with employment by absorbing in some other Society. On 26.05.2018, the first respondent forwarded the petitioner's application to the second respondent to consider his request. Thereafter, the second respondent had rejected the petitioner's request vide proceedings dated 02.09.2020, stating that the employees of windup Society cannot be considered for absorption in other Society.

(iii)Challenging the same, a Writ Petition in W.P.(MD)No.510 of 2021 came to be filed seeking reemployment. In the meanwhile, the second respondent had sent a communication dated 31.03.2023, by informing that the third respondent Society would become functional thereby, directing the petitioner to join duty thereat. However, the same was not been re-opened so far. In the



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meanwhile, the aforesaid Writ Petition also came to be dismissed on 28.02.2014 holding that the Government has no authority to give re-employment. Thereafter, the petitioner has sent representations seeking disbursal of pending amount including his terminal benefits, gratuity and EPF to the second respondent on 10.04.2023 and the same has not been considered.

4.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and carefully perused the entire materials available on record.

5.It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.



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6.In view of the same, without going into merits of the case, this Court hereby direct the respondents 1 and 2 to consider the petitioner's representation dated 10.04.2023 and forthwith issue the petitioner's terminal benefits including gratuity and EPF and arrears of salary within a period of 16 weeks from the date of receipt of copy of this order.

7.Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

- 1.The Registrar of Co operative Societies (Housing),
Veppery, Chennai.
- 2.The Regional Deputy Registrar of
Cooperative Societies (Housing),
Thanjavur, Thanjavur District.



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L.VICTORIA GOWRI, J.

Mrn

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