BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)Nos.14503, 14506, 14508 to 14511 of 2022

W.P.(MD)Nos.14503:

S.Thirumalaikumar .. Petitioner

Vs.

1. The Registrar of Co-Operative Societies,
Kilpauk,
Chennai 600 010.

2. The Managing Director,
Tamil Nadu Co-Operative State Agricultural
and Rural Development Bank Ltd.,
181, Luz Church Road, Mylapore,
Chennai 600 004. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 2nd respondent in his proceedings dated 12.07.2021 in No.ப.க./கோ.7 /ஓய்வு/2021 and quash the same as illegal and consequently direct the respondents to pay 9% interest per annum on the recovered amount of Rs.1,01,958/- to the petitioner from 30.10.2001 to till the date of disbursal i.e. on 13.05.2020 to the tune of Rs.1,68,997/-.

In all cases:
For Petitioners : Mrs.S.Devasana

For Respondents : Mr.K.Selvaganesan
Additional Government Pleader

COMMON ORDER

Heard Mrs.S.Devasana, learned counsel appearing for the petitioners and Mr.K.Selvaganesan, learned Additional Government Pleader appearing for the respondents.

2. These writ petitions have been filed challenging the impugned order dated 12.07.2021 passed by the second respondent and for a consequential direction to the respondents to pay 9% interest per annum for the amount withheld from the petitioners' retirement benefits from the date of their retirement till the date of disbursal.

3. The petitioners were working as Assistant Development Officers at the time of their retirement, ie., from the year 2001 to 2007. The audit objections were made in the year 2001 due to which the respondents withheld a sum of Rs.1,01,958/-, 1,02,687/-, 1,02,985/-, 1,01,663/-, 1,01,897/- & 1,02,063/- respectively, from the retirement benefits of the petitioners and hence the petitioners were compelled to file writ petitions seeking for disbursal of the amount withheld by the respondent with an interest of 9% per annum and the writ petitions were allowed by directing the authorities concerned to remove the audit objection and pass appropriate orders.

4. It is learnt from the submission of the learned Additional Government Pleader for the respondents that the above deduction was made in pursuant to the audit objection raised in the year 2001. But even after the writ petitions were allowed by giving a direction to rectify the defect and remove the audit objection, the respondents did not do the same. Instead, they have filed an appeal in the year 2012 and that the appeal was dismissed in the year 2014. Not satisfied with the order passed in the writ appeal, the respondents have filed a review application in the year 2015 and that was disposed only in the year 2019. So, the petitioners claimed that they are entitled to interest at the rate of 9% interest per annum from the date of retirement till the date of disbursal of the said amount pursuant to the orders of this Court.

5. The one and only objection raised by the learned Additional Government Pleader for the respondents is that the proceedings was pending and only in view of the fact that the respondents could not disburse the amount and hence, the respondents cannot be made liable to pay the interest amount and that in the earlier writ petitions, no orders have been passed as to the payment of interest and hence the petitioners are not entitled interest as claimed.

6. In fact, the petitioners have retired from the years 2001 to 2007 and the audit objections were made in the year 2001. Hence, it is the obligatory on the part of the respondents to do the needful to answer the audit objection and get the audit objection either confirmed or removed.

In view of the communications issued by the respondents withholding the excess payment made to wrong fixation of pay from their retiral benefits, the petitioners are forced to file writ petitions in the year 2008. Without any mistake on the part of the petitioners, they are made to wait for nearly 7 years for which no explanation was given by the respondents. After the petitioners filed the writ petitions in the year 2008 and got a direction in their favour also, the respondents did not act in accordance with the directions of the Court. But they had chosen to prefer writ appeal and thereafter review petition and hence, the disbursement was not made till the year 2020.

7. Since the petitioners had occasioned to knock the doors of the Court even at the first instance to remove the audit objection, the consequential round of litigations followed. Such delay has been caused due to the lackadaisical manner in which the respondents had handled the audit objection and made the petitioners to wait for several years and it is fair on the part of the petitioners to claim interest for the period of delay.

8. In view of the same, these writ petitions are **allowed.** The impugned orders are set aside. The first respondent is directed to pay the statutory interest for the gratuity amount withheld from the retiral benefits of the petitioners. No Costs.

04.06.2024

Index : Yes / No
NCC : Yes / No
PJL

To

1. The Registrar of Co-Operative Societies,
Kilpauk,
Chennai 600 010.

2. The Managing Director,
Tamil Nadu Co-Operative State Agricultural
and Rural Development Bank Ltd.,
181, Luz Church Road, Mylapore,
Chennai 600 004.

R.N.MANJULA, J.

PJL

W.P.(MD)Nos.14503, 14506,
14508 to 14511 of 2022

04.06.2024