



WP(MD) No.14097 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.14097 of 2024

and

W.M.P.(MD)Nos.12374 and 12375 of 2024

S.Samidurai

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Tirunelveli Region,
Palayamcottai,
Tirunelveli-1.

2.The Regional Deputy Registrar of
Cooperative Societies (Housing),
Tirunelveli Region,
71-B, Tiruchendur Road,
Palayamcottai, Tirunelveli-2.

...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 records relating to the impugned order passed by the first respondent in Na.Ka.No.4804/2019 PaTho dated 30.09.2019 insofar as the same relates to permitting the petitioner to retire on condition to recover the surcharge amount from terminal benefits is concerned and the consequential impugned order passed by the first respondent in Na.Ka.No.4804/2019 PaTho dated 03.12.2020 and quash the same as



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illegal and consequently direct the respondents to grant pensionary, retirement benefits and all other monetary benefits along with interest at the rate of 18% within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Jerin Mathew
For Respondents : Mr.K.Selva Ganesan
Additional Government Pleader

ORDER

The petitioner has filed this writ petition challenging the order of the first respondent in Na.Ka.No.4804/2019 PaTho dated 30.09.2019 and the consequential impugned order passed by the first respondent in Na.Ka.No.4804/2019 PaTho dated 03.12.2020 and to direct the respondents to grant pensionary, retirement benefits and all other monetary benefits along with interest at the rate of 18% within the period that may be stipulated by this Court.

2.Heard Mr.M.Jerin Mathew, learned counsel for the petitioner, Mr.K.Selva Ganesan, learned Additional Government Pleader Counsel for the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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4.The petitioner, who was working as a Cooperative Sub-

Registrar in the respondent Society, retired from service on 30.09.2019.

Since the surcharge proceedings was pending against the petitioner, he was allowed to retire from service on condition that the alleged loss caused by him to the respondent Society, will be recovered from the petitioner's terminal benefits and only the provisional pension was ordered to be paid to the petitioner.

5.The learned Additional Government Pleader appearing for the respondents submitted that the surcharge proceedings initiated against the petitioner has been completed.

6.The relief of payment of retirement benefits sought by the petitioner has become infructuous as the surcharge proceedings initiated against the petitioner has been completed.

6.The legal position relating to deduction of surcharge amount from the retirement benefits of an employee is set at rest as the recovery of such amount has to be considered as revenue recovery under Section 87(2) of the Tamil Nadu Co-operative Societies Act, which reads thus:



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“(2)Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum ordered under this section to be repaid to a registered society or recovered as a contribution to its assets may be recovered as if it were an arrears of land revenue and for the purpose of such recovery, the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).”

7.Hence, the authorities are empowered to proceed under the above provision for recovery of the surcharge amount in accordance with law.

8.At this juncture, the learned counsel for the petitioner submitted that the petitioner has filed an appeal before the Tribunal challenging the surcharge proceedings and the same is pending in C.M.A.(CS) No.12 of 2014.

9.Since the appeal filed against the orders passed in the surcharge proceedings is pending, depending upon its outcome, the respondents are directed to take any action for recovery of surcharge amount by creating charge over the other assets of the petitioner.



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10.It is needless to mention here that since the surcharge proceedings has been completed, the respondents are directed to pay the retirement benefits within a period of four weeks from the date of receipt of a copy of this order.

11.With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

01.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

1.The Joint Registrar of Cooperative Societies,
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Tirunelveli-1.

2.The Regional Deputy Registrar of
Cooperative Societies (Housing),
Tirunelveli Region,
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R.N.MANJULA, J.

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