



W.P.(MD)No.15477 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.15477 of 2024

and

W.M.P.(MD).No.13532 of 2024

S.Swaminathan

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
O/o. The Joint Registrar of Co-operative Societies,
Thanjavur Region,
Thanjavur.
- 2.The Deputy Registrar of Co-operative Societies,
(Public Distribution System),
O/o. The Deputy Registrar of Co-operative Societies (PDS),
Thanjavur, Thanjavur District.
- 3.The Treasury Officer,
District Treasury,
Thanjavur,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent vide Na.Ka.No. 225/2024/povithi.1(2) dated 07.06.2024 and quash the same and consequential direction to the respondents to pay the retirement benefit payable to the



W.P.(MD)No.15477 of 2024

petitioner, such as, Earned Leave Salary, Unearned Leave Salary, Special Provident Fund and Death-cum-Retirement Gratuity (DCRG).

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.K.S.Selva Ganesan,
Additional Government Pleader

ORDER

By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.K.S.Selva Ganesan, learned Additional Government Pleader appearing for the respondents.

3. This Writ Petition has been filed challenging the impugned order passed by the second respondent in Na.Ka.No.225/2024/povithi.1(2), dated 07.06.2024 and consequently direct the respondents to pay the retirement benefits payable to the petitioner, such as, Earned Leave Salary, Unearned Leave Salary, Special Provident Fund and Death-cum-Retirement Gratuity (DCRG).



W.P.(MD)No.15477 of 2024

4. The petitioner, who was working as a Steno-Typist in the office of the second respondent, has attained the age of superannuation on 31.03.2024 and the second respondent allowed the petitioner to retire from service on the very same day. In the order of retirement, it has been clearly stated that no disciplinary proceedings have been pending against the petitioner and the petitioner has got no dues to be paid to the Department. Therefore, the petitioner has been permitted to retire without any conditions attached. However, so far the retiral benefits has not been disbursed. Aggrieved over the same, the petitioner has filed this Writ Petition.

5. In the impugned order dated 07.06.2024 it has been stated that there is a civil case proceedings pending before the Sub Court, Mannarkudi, in respect of an Execution Petition against the petitioner and hence, the petitioner ought to have relieved from the said proceedings and produce the proof before the second respondent. Presumably, that is the reason why the petitioner's retirement benefits have not been disbursed so far.

6. Mr.K.S.Selva Ganesan, learned Additional Government Pleader appearing for the respondents submitted that the Joint Director has also been impleaded as a party in his capacity as a garnishee in E.P.No.99 of 2022. If the



W.P.(MD)No.15477 of 2024

Court passes any orders against the garnishee, the Garnishee will be put to trouble if the terminal benefits of the petitioner are released in the meanwhile.

7. So far as the Execution proceedings is concerned, it appears to be the proceedings filed to execute an award obtained in the arbitration award passed in A.C.P.No.231 of 2013.

8. Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner submitted that it is about a matter where the petitioner is said to have stood as a Guarantor for the third party for availing loan from the Sriram City Union Finance Limited.

9. Since the borrower has defaulted to pay the loan, an arbitration award has been passed presumably by joining the petitioner in his capacity as a guarantor. Since the E.P. proceedings have been pending from the year 2022 by impleading the second respondent also as a Garnishee, it is in the interest of the award holder to get any order against the Garnishee before the employee gets retirement from the service. As on the date when the petitioner was allowed to retire, there was no pendency shown in the order. So it is upto the award holder to initiate any action against the petitioner, in case, he intends to execute the award against the petitioner.



W.P.(MD)No.15477 of 2024

10. In view of the same, there is no necessity to withhold the terminal benefits of the petitioner and the terminal benefits shall be disbursed unminding the impugned proceedings issued against the petitioner on 07.06.2024 since no order of attachment has been passed against the terminal benefits due to the petitioner.

11. In view of the above, the Writ Petition is **allowed** and the impugned order passed by the second respondent in Na.Ka.No.225/2024/povithi.1(2) dated 07.06.2024 is set aside and the respondents are directed to pay the retirement benefits payable to the petitioner, such as, Earned Leave Salary, Unearned Leave Salary, Special Provident Fund and Death-cum-Retirement Gratuity (DCRG) within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

11.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



W.P.(MD)No.15477 of 2024

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W.P.(MD)No.15477 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.15477 of 2024

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