



W.P.(MD)No.15702 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

**W.P.(MD)No.15702 of 2024
and
WMP(MD)No.13686 of 2024**

A.Anthonydoss

.. Petitioner

Vs.

1. The Registrar of Cooperative Societies,
No. 170, Periyar E.V.R. High Road,
N.V. Natarajan Maaligai,
Kilpauk, Chennai.

2. The Joint Registrar of Cooperative Societies,
O/o. the Joint Registrar of Cooperative Societies,
Tiruchirappalli Region,
Government Multistoried Building,
Kaajamalai, Tiruchirappalli.

3. The Joint Registrar of Cooperative Societies,
O/o. the Joint Registrar of Cooperative Societies,
Thanjavur Region, Thanjavur.

4. The Deputy Registrar of Cooperative Societies,
O/o. the Deputy Registrar of Cooperative Societies,
Thanjavur Circle,
Thanjavur.

5. The Deputy Registrar of Cooperative Societies,
O/o. the Deputy Registrar of Cooperative Societies,



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Tiruchirappalli Circle,
Tiruchirappalli 20.

... 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 impugned order passed by the 2nd respondent vide Na.Ka.No.4928/2017/APaA dated 20.05.2024 and quash the same and consequential direction to the respondents to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave Salary and Unearned Leave Salary and all other monetary benefits payable to the petitioner with interest at the rate of 10% per annum from the date of retirement till the date of realization, within the time frame.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.S.Kameswaran
Government Advocate

ORDER

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.S.Kameswaran, learned Government Advocate appearing for the respondents.



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2. The petitioner has filed this writ petition challenging the impugned order passed by the 2nd respondent vide Na.Ka.No. 4928/2017/APaA dated 20.05.2024 and consequential direction to the respondents to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave Salary and Unearned Leave Salary and all other monetary benefits payable to the petitioner with interest at the rate of 10% per annum from the date of retirement till the date of realization, within a specific time.

3. The petitioner, who has been working as a Field Officer/Cooperative Sub Registrar in the Cooperative Department was issued with a charge memo on 19.03.2010. There are certain allegations made against the petitioner that he had made double payment to six members of the Society and thereby caused financial loss to the Society to the tune of Rs.1,34,190/-.

4. The learned counsel for the petitioner submitted that the mistake was actually committed by the Special Officer and the petitioner has not



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misappropriate any funds of the Society. The petitioner was kept under suspension in view of the criminal case registered in this regard in Crime No.4 of 2010 for the offence under Sections 408, 409, 477(A) and 418 of IPC by the Commercial Crime Investigation Wing, Tiruchirappalli. The petitioner was not allowed to retire even after he attained the age of superannuation. Hence he filed a writ petition in W.P(MD)No.6794 of 2010 challenging the charge memo dated 19.03.2010. The Court was pleased to dismiss the above writ petition. After that, the charge memo and the criminal case, which was registered in the year 2010, is pending for more than 14 years. Therefore, the petitioner made a representation on 26.04.2024 to disburse the retirement benefit payable to him, but the same was denied and an order has been passed to that effect on 20.05.2024. Hence, the petitioner filed this writ petition seeking disbursal of the General Provident Fund, Special Provident Fund, Encashment of Earned Leave Salary and Unearned Leave Salary and all other monetary benefits payable to him with interest at the rate of 10% per annum.



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5. The learned counsel for the petitioner submitted that pending criminal case cannot be a bar to disburse the retirement benefits to the petitioner. Reliance was placed on the judgment of the Division Bench of this Court in **W.A(MD)No.105 of 2019** dated 31.07.2019 (*The Secretary to Government, Revenue Department, Chennai v. K.Palaniyandi*).

6. In the said judgment, it is held there are two types of monetary benefits payable to the Government Servants. One type of such benefit such as Earned Leave, Provident Fund and Special Provident Fund, which are the benefits already accrued and got credited to the account of the employee, which he is entitled to receive automatically on attaining the age of superannuation. So there cannot be any quarrel to disburse the above said amount as it attains the nature of the property of the Government employee. The above judgment further clarified that allowing the employee to retire on attaining the age of superannuation, immediately the department shall settle the above benefits even in the worst case of dismissing the employee from service after the conclusion of the pending disciplinary proceedings against him. In the same line of appreciation, various petitions filed by the employees seeking the similar



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relief have been granted by this Court.

7. This petitioner has placed under suspension before 14 years and the criminal case registered against him has also not disposed so far. In such case, it is unfair to withheld the benefits like General Provident Fund, Special Provident Fund, Encashment of Earned Leave Salary and Unearned Leave Salary of the petitioner. On the other hand, the payment of death cum retirement gratuity, which would be considered by appreciating the service of the employee, might be depending upon the outcome of the disciplinary proceedings, if any. Sometimes even in the case of disbursal of pension, provisional pension might be allowed by permitting the employee to retire on condition. In the instant case, it appears that the petitioner has not been given with the provisional pension also as he was not allowed to retire so far.

8. So far as the limited relief sought by the petitioner for setting aside the order denying the holding of his terminal benefits, I feel it is appropriate to set aside the order and direct the respondents to disburse atleast the General Provident Fund, Special Provident Fund, Encashment



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of Earned Leave Salary and Unearned Leave Salary and other monetary benefits except the gratuity and pension, if any.

9. In the result, this writ petition is **allowed** and the impugned order dated 20.05.2024 is set aside. The 2nd respondent is directed to disburse the General Provident Fund, Special Provident Fund, Encashment of Earned Leave Salary and Unearned Leave Salary to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

12.07.2024

Index : Yes / No
NCC : Yes / No
PJJ

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R.N.MANJULA, J.

PJL

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