



WP(MD) No.16151 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16151 of 2024
and
W.M.P(MD)No.14036 of 2024

Gurunathan

... Petitioner

Vs.

1.The Joint Registrar of Co-Operatives,
Theni, Theni District.

2.The Circle Deputy Registrar of Co-Operatives,
Periyakulam,
Theni District.

3.The Administrator,
MD65 Kathirnarasingapuram Primary
Agriculture Co-Operative Credit Society,
Kathirnarasingapuram,
Theni District.

... Respondents



WP(MD) No.16151 of 2024

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 pertaining to the impugned order passed by the second respondent in Na.Ka.No.176/2024 Sa.Pa.(2) dated 02.05.2024 and quash the same consequently directing the respondent to pay the death cum retirement benefits enhancement of earned leave salary and other monetary benefits within time stipulated by this Court.

For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.S.Kameshwaran

Government Advocate

ORDER

Heard Mr.C.Jeganathan, learned counsel appearing for the petitioner and Mr.S.Kameshwaran, learned Government Advocate appearing for the respondents.

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

3. The petitioner has filed this writ petition challenging the order withholding the terminal benefits of the petitioner in view of the surcharge fixed against the petitioner.



WP(MD) No.16151 of 2024

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4. The learned counsel for the petitioner submitted that the petitioner had already deposited a sum of Rs.1,00,000/- towards surcharge and his terminal benefits cannot be withheld, for recovery of the surcharge imposed against the petitioner.

5. The learned Government Advocate submitted that the petitioner has deposited only a sum of Rs.12,000/- and not Rs.1,00,000/- as alleged by him.

6. The petitioner has suffered a surcharge order, consequent to the surcharge proceedings initiated against him. So, there cannot be any quarrel on that score. However, the submission of the petitioner is that surcharge proceedings can be recovered similar to revenue recovery and for that, the petitioner's terminal benefits shall not be withheld.

7. At this juncture, it is relevant hereunder to extract Section 87(2) of the Tamil Nadu Co-operative Societies Act:

“(2) Without prejudice to any other mode of



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WP(MD) No.16151 of 2024

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 arrear 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). ”

8. Even Mr.S.Kameshwaran, learned Government Advocate appearing for the respondents submitted that the retiral benefits of the employee can be released on account of other mode of recovery available under the Tamil Nadu Co-operative Societies Act itself. In such a case, I find no difficulty for the respondents to disburse the retiral benefits of the petitioner.

9. In view of the above stated reasons, the writ petition is **allowed** and the impugned order of the second respondent in Na.Ka.No. 176/2024 Sa.Pa.(2), dated 02.05.2024 is set aside. The respondents are directed to disburse the petitioner's retirement and other applicable



WP(MD) No.16151 of 2024

benefits 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.

19.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

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WP(MD) No.16151 of 2024

R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.16151 of 2024

19.07.2024