



W.P.(MD)No.18334 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.18334 of 2024
and W.M.P.(MD).No.15619 of 2024

B.N.Giridharan

... Petitioner

Vs.

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

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

... 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 impugned order passed by the second respondent vide Na.Ka.No.5148/2013/A Pa A dated 17.05.2024 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% from the date of retirement till the date of realization, within the time frame to be fixed by this Court.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.K.S.Selvaganesan,
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.Selvaganesan, learned Additional Government Pleader appearing for the respondents.

3. The petitioner has filed this Writ Petition challenging the impugned order passed by the second respondent vide Na.Ka.No.5148/2013/A Pa A, dated 17.05.2024 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% from the date of retirement till the date of realization, within the time frame to be fixed by this Court.



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4. The petitioner was working as Co-operative Sub-Register in the Department of Co-operation, Food and Consumer Protection Department. The petitioner was placed under suspension on 13.11.2013 on the ground that a criminal case is pending against the petitioner. While so, the petitioner attained the age of superannuation on 30.11.2013, however, he was not allowed to retire. The petitioner made a representation to the respondents on 07.05.2024 to disburse the retirement benefit payable to him. But the second respondent has passed the impugned order, dated 17.05.2024, stating that since criminal case is pending against the petitioner, there is no possibility for disbursing the retirement benefits to the petitioner. Challenging the same, the petitioner has filed this Writ Petition.

5. The issue on hand is no longer a *res-integra*. This Court has already dealt with a similar issue in ***W.P.(MD).No.15702 of 2024***, dated ***12.07.2024*** in the case of ***A.Anthonydoss Vs. The Registrar of Co-operative Societies, No. 170, Periyar E.V.R. High Road, N.V.Natarajan Maaligai, Kilpauk, Chennai and others***). Similarly placed person has already approached this Court through the above petition and got favourable order in his favour, wherein, it is held as follows :



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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 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



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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 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.”



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6. In the light of the decision cited supra, this writ petition is **allowed** and the impugned order passed by the second respondent vide Na.Ka.No. 5148/2013/A Pa A, dated 17.05.2024 is set aside. The second 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.

01.08.2024

Index:yes/no

Internet:yes/no

Ncc : yes/no

TSG

To

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N.V.Natarajan Maaligai,
Kilpauk, Chennai.

2.The Joint Registrar of Co-operative Societies,
O/o. the Joint Registrar of Co-operative Societies,
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R.N.MANJULA, J.

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