



W.P.(MD).No.29962 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.29962 of 2023

T.Stephenson

... Petitioner

Vs.

1.The Assistant Director of Industries
and Commerce,
(Industrial Co-Operative Societies),
Liquidator,
TAICO Bank Ltd.,
No.3, South Canal Bank Road,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai-28.

2.Kanyakumari District Small Match
Producers Service Industrial
Co-operative Society Ltd.,
Represented by Official Liquidator,
Thuckalay,
Kanyakumari District.
(Under Liquidation)

... Respondents



W.P.(MD).No.29962 of 2023

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay and disburse forthwith the terminal benefits due to the petitioner viz., the General Provident Fund, Gratuity, Arrears of Salary and Pension, with interest at 6% in conformity with the proceedings of the 1st respondent in Ka.Ko.No. 193 of 2004 dated 04.02.2021.

For Petitioner : Mr.R.Jenifar Bibin

For Respondents : Mr.J.John Jeyakumar
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the respondents to pay and disburse forthwith the terminal benefits due to the petitioner viz., the General Provident Fund, Gratuity, Arrears of Salary and Pension, with interest at 6% in conformity with the proceedings of the 1st respondent in Ka.Ko.No.193 of 2004 dated 04.02.2021.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-



W.P.(MD).No.29962 of 2023

WEB COPY

(i) The petitioner worked as a Godown clerk in the 2nd respondent Society and retired from service on 31.10.2009. According to the 1st respondent, the 2nd respondent's Society was liquidated on 28.05.2004 under Section 137(1) of Tamil Nadu Co-operative Societies Act, 1983. During service, the 2nd respondent failed to pay salary from 01.04.2000 till his retirement. However, it was promised by the 2nd respondent that the arrears of salary would be credited once the liquidation proceedings was completed. Even after that the 2nd respondent failed to pay his statutory obligation. During his tenure the contribution of EPF was also deducted from his salary and the petitioner was informed that the same was paid by the 2nd respondent to the scheme. Since the respondent failed to settle the eligible benefits after the retirement, the petitioner filed P.G.No.58 of 2018 before the Assistant Commissioner of Labour, Tirunelveli. The Assistant Commissioner, vide order, dated 15.04.2019 directed the respondent to pay an amount of Rs.36,690/- (Rupees Thirty Six Thousand Six Hundred and Ninety only) with 10% interest from 28.05.2004, that is, the date of liquidation till the date of realization. However, the same was not paid.



W.P.(MD).No.29962 of 2023

(ii) Hence, the petitioner filed W.P.No.26987 of 2019 seeking direction to the respondents to pay the petitioner the arrears of salary, the gratuity and EPF benefits etc., based on his representation dated 15.03.2019. This Court pleased to pass an order, directing the respondents to consider the petitioner's representation within a period of twelve (12) weeks. Since there was no response, the petitioner further submitted a petition to the Chief Minister, State of Tamil Nadu on 11.12.2020. In the meanwhile, vide proceedings dated 04.02.2021, it was informed that steps were taken to sell the properties of 2nd respondent in public auction and he was assured that the petitioner's terminal benefits would be paid immediately after selling the properties of the 2nd respondent in public auction. However, the same was not done. Hence, the petitioner filed W.P.No.8082 of 2023 before the Principle Bench of this Court. The said writ petition was dismissed by directing the petitioner to file a petition before the Madurai Bench. Even then the petitioner's retirement benefits were disbursed. Hence, the petitioner made a detailed representation dated 11.07.2023 to the 1st respondent requesting to disburse the petitioner's eligible and entitle retirement benefits. Since the same was not considered, the present writ petition came to be filed.



W.P.(MD).No.29962 of 2023

WEB COPY

3. Heard, the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Carefully perused the materials available on record.

4. Considering the limited scope of relief sought for by the petitioner, this Court hereby direct the respondents to pay and disburse forthwith the terminal benefits due to the petitioner viz., the General Provident Fund, Gratuity, Arrears of Salary and Pension, with interest at 6 % vide proceedings of the 1st respondent dated 04.02.2021. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition stands disposed of. No costs.

19.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml



W.P.(MD).No.29962 of 2023

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W.P.(MD).No.29962 of 2023

L.VICTORIA GOWRI, J.

Sml

W.P.(MD).No.29962 of 2023

19.02.2024