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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.No.995 of 2022

S.Jayaraman(deceased)

1.Palaniyammal,
residing at No.2/50-D, Bhajanai Madam Street,
Sendarapatty- 636 110, Gangavalli Taluk, Salem District.

2.Kalpana
residing at No.2/50-D, Bhajanai Madam Street,
Sendarapatty- 636 110, Gangavalli Taluk, Salem District.

3.Kavitha
residing at No.2/50-D, Bhajanai Madam Street,
Sendarapatty- 636 110, Gangavalli Taluk, Salem District.

Appellant(s)

Vs

1. The State of Tamil Nadu
represented by its Secretary to Government,
Cooperation, Food and Consumer Protection Department,
Secretariat, Chennai- 9.

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2.The Accountant General, (A and E)
Tamil Nadu Circle, 361, Anna Salai, Chennai-18.

3.The Financial Advisor and Chief Accounts Officer
O/O. The Registrar Of Co-Op. Societies,
NVN Natarajan Maaligai, No.170, EVR Periyar High Road,
Kilpauk, Chennai-600 010.

Respondent(s)

Writ Appeal filed under Clause 15 of the Letter Patent Appeal to set aside the order dated 08.12.2021 passed in W.P.No.17108 of 2013 on the file of this Court.

For Appellant(s): Mr.K.Premkumar

For Respondent(s): Mr.Ravikumar
Special Government Pleader

JUDGMENT

(Made by M.Jothiraman, J.)

An intra-court appeal has been preferred as against the order dated 08.12.2021 passed in W.P.No.17108 of 2013 on the file of this Court.

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2. Originally, one Jayaraman has filed the writ petition in W.P.No.17108 of 2013 challenging the order impugned therein passed by the Secretary to Government, Cooperation, Food and Consumer Protection Department, in G.O.(D).No.20, Cooperation, Food & Protection Department, dated 31.01.2023, insofar as, it relates to imposing of a condition that the orders are passed without prejudice to the surcharge action pending against him and to regularize and settle the regular pension, death-cum-retirement gratuity, *etc*. with 12% interest from the date of retirement on 31.01.2013.

3. During the pendency of the writ petition, the said Jayaraman died on 13.05.2020 and a petition in W.P.M.P.No.11297 of 2021 has been filed to bring on record the legal representatives of Jayaraman and substitute them as petitioners in the writ petition, pursuant to which, the legal representatives of Jayaraman were impleaded as writ petitioners in W.P.No.17108 of 2013.

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4. A learned Single Judge of this Court *vide* order dated 08.12.2021 has passed the following order:

> *"3.In view of the submissions made by the learned counsel for the petitioner that the surcharge proceedings pending against the petitioner are concluded and the entire amount was also recovered by the department, the prayer sought for in the writ petition has automatically become infructuous. However, considering the fact that the legal heirs of the petitioner are also entitled to receive the service benefits of the deceased petitioner, this Court is inclined to issue the following directions:*
>
> i. *The impleaded petitioner/legal heirs of the deceased petitioner are directed to make representation before the authorities concerned, seeking service benefits of the deceased along with the copy of this order.*
> ii. *On receipt of such representation, the 1st respondent shall consider and dispose of the said representation as expeditiously as possible."*

5. Aggrieved by the same, the present writ appeal came to be filed by the legal heirs of Jayaraman.

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6. The learned counsel appearing for the appellants would submit that while the employee Jayaraman was working as Deputy Registrar of Cooperative Societies, retired on 31.01.2013 and the first respondent *vide* G.O.(D).No.20, Cooperation, Food & Protection Department, dated 31.01.2023, permitted Jayaraman to retire from service without prejudice to the pending surcharge proceedings initiated under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983. He would further submit that pending writ appeal, the respondents paid the terminal benefits to the appellants/legal representatives of Jayaraman to the tune of Rs.31,95,849/-. Further, he would submit that the appellants are yet to receive the arrears of pension payable to Jayaraman, while he was alive for the months of February, March and April 2013 and for the month of May 2020.

7. The learned Special Government Pleader appearing for the respondents, on instructions, confirmed the amounts paid to the appellants

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by the respondents, as stated by the learned counsel for the appellants.

8. We have considered the submissions made on either side and perused the records.

9. On the side of the appellants, details of the payments received by the appellants by way of memorandum dated 12.06.2025 has been filed before this Court and the same has not been disputed by the respondents' side.

10. The relevant portion of the memorandum dated 12.06.2025 filed by the appellants reads as follows:

"5) Pending writ appeal, the respondents paid the terminal benefits in the following manner:

Sl. No.	***Head of Account***	***Date of Payment***	***Amount paid***
1	*Death-cum-Retirement Gratuity (DCRG)*	08.09.2022	*8,71,101.00/-*
2	*Special Provident Fund (SPF)*	08.11.2022	*31,945.00/-*
3	*Unearned Leave Encashment*	08.11.2022	*1,61,382.00/-*
4	*Earned Leave Encashment*	08.11.2022	*4,30,352.00/-*

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Sl. No.	***Head of Account***	***Date of Payment***	***Amount paid***
5	*Family Pension Arrears*	04.10.2022	*17,00,769.00/-*
		Total	*31,95,849.00/-*

6) The appellants state that they are yet to receive the arrears of pension payable to the deceased employee, while he was alive for the months of February, March, April, 2013 and for the month of May, 2020 (for 13 days).

7) The respondents are yet to pay the interest for the belated payments of all the above amounts, which the deceased employee is entitled to, because he retired from service on 31.01.2013."

11. It is seen from the typed set of papers that Jayaraman was permitted to retire from service on 31.01.2013 without prejudice to the surcharge action pending against him *vide* G.O.(D).No.20, Cooperation, Food & Protection Department, dated 31.01.2023.

12. It is also seen from records that the Government *vide* Letter

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(Ms).No.84, Cooperation, Food and Consumer Protection Department, dated 15.07.2022, has issued the following order:

> *"The Registrar of Cooperative Societies in his letter dated 15.07.2022, has stated that on the surcharge proceedings, the entire amount has been recovered and Thiru.S.Jayaraman has been relieved from the surcharge proceedings (Service Book Page No.31/Vol.IV) and the C.M.A(C.S)No.16/2018 against order of Deputy Registrar, Attur Circle, Athur, vide Rc.No.3655/2005 dated 17.03.2018 is not a bar to grant retirement benefit to the legal heir of the deceased."*

13. From the records, it is also seen that Jayaraman was permitted to retire without prejudice to the surcharge action pending against him and he was relieved from the surcharge action *vide* Rc.No.3655/2005 dated 17.03.2018, whereas, the terminal benefits paid to the legal heirs of Jayaraman only in the year 2022.

14. It is further seen from the records that under Rule 69(1)(a) of the Tamil Nadu Pension Rules, 1978 (for brevity "the TN Pension Rules"), sanction was accorded for the payment of provisional pension to the employee Jayaraman with effect from 01.02.2013 till the surcharge action pending against him is disposed of *vide* proceedings Rc.8447/2013 P1(1),

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dated 25.03.2013 of Financial Advisor and Chief Accounts Officer, Office of the Registrar of Cooperative Societies, Chennai – 10.

15. The learned counsel for the appellants would submit that the respondents are yet to pay interest for the belated payments of terminal benefits, which have been paid since the deceased employee is entitled to, because, he retired from service on 31.01.2013 and the terminal benefits came to be paid only in the year 2022.

16. It is appropriate to mention that Rule 45(1)(a)g of the TN Pension Rules, enumerates that a Government servant, who has completed five years qualifying service and has become eligible for service gratuity or pension under Rule 43, *ibid.,* shall, on his retirement be granted death-cum-retirement gratuity (as in the Table), each completed six months period of qualifying service, subject to a maximum of fifteen times emoluments.

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Further, Rule 45-A of the TN Pension Rules deals with interest on delayed payment of gratuity.

17. In view of the submission made by the learned counsel for the appellants that the service benefits were paid belatedly to the appellants, we are of the considered view that as per service rules applicable to the deceased employee Jayaraman, his legal heirs are also entitled to receive the service benefits with interest on belated payments.

18. *Ex consequenti*, this Court is inclined to issue the following directions:

(a) The legal heirs of the deceased employee Jayaraman are directed to make a representation before the authorities concerned along with a copy of this order, seeking interest for the belated payments or service benefits of Jayaraman; and

(b) On receipt of such representation, the first respondent shall consider the same on merits and in accordance with law and dispose of the said representation as expeditiously as possible.

This writ appeal is disposed of in the above terms. No costs.

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(J.N.B., J.) **(M.J.R., J.)**

12.06.2025

nsd
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1.The Secretary to Government,
Cooperation, Food and Consumer Protection Department,
Secretariat, Chennai- 9.

2.The Accountant General, (A and E)
Tamil Nadu Circle, 361, Anna Salai, Chennai-18.

3.The Financial Advisor and Chief Accounts Officer
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