IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.31842 of 2015

C.Logeswaran ... Petitioner

Vs.

1.The Regional Joint Registrar of Co-operative Society,
Collectorate Building,
Sathuvachari,
Vellore District.

2.The C-1317 Arakonam Co-operative Primary Agricultural and Rural Development Bank Ltd.
No.1, Jothi Vallar Street, Jothi Nagar,
Arakonam – 631 003,
Vellor District Rep. by its President …Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the respondents particularly that of the 1st respondent dated 10.09.2015 in Na.Ka.No.3432/2015 A2, Revision Petitin No.5 of 2015 A2 and quash the same as illegal, unlawful, without jurisdiction, besides ultra vires and consequently direct the respondents to pay the terminal benefits together with interest totaling a sum of Rs.13,09,790/- together with accrued interest until the date of full realization.

For Petitioner : M/s.T.Rajamohan

For Respondents : Mr.P.Ganesan
Government Advocate.

ORDER

The petitioner herein was initially appointed as Clerk in the 2nd respondent Co-operative Bank in the year 1969, and thereafter, he was promoted from time to time and finally as Secretary with effect from 02.09.1999, and he retired from service on attaining the age of superannuation on 30.06.2004. Just before the petitioner's retirement, the 2nd respondent issued a charge memo dated 25.06.2004 on certain allegations. However, the said charge memo was challenged by the petitioner before this Court by filing W.P.No.19890 of 2004, and the said charge memo was quashed by this Court on the ground of competency to continue the disciplinary proceedings after the petitioner was relieved from service by an order dated 20.01.2011. However, the 2nd respondent was granted liberty to take appropriate action by initiating surcharge proceedings against the petitioner under Section 87 of the Tamil Nadu Co-oeprative Societies Act 1983(hereinafter referred as 'Act, 1983'). Though the 2nd respondent challenged the said order dated 20.01.2011 passed by this Court by filing W.A.No.112 of 2012, the said Writ appeal was dismissed by an order dated 15.02.2011. As the 2nd respondent has not paid the terminal benefits of the petitioner for long time, the petitioner once again approached this Court by filing W.P.No.33606 of 2012 seeking the following relief:

> *"Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to release the retirement benefits like Provident Fund, gratuity and encashment of accumulated earned leave without any further delay and without any recovery with penal interest."*

2. The said writ petition was allowed by a co-ordinate bench of this Court, by an order dated 21.02.2014, directing the respondents to release the terminal benefits of the petitioner within a period of eight weeks. It was thereafter, the respondents paid the terminal benefits of the petitioner during the year 2014-2015. According to the 2nd respondent, the petitioner is entitled for an amount of Rs.10,56,413/- towards the terminal benefits i.e., PF, Gratuity and encashment of Earned Leave. But the 2nd respondent has withhold an amount of Rs.1,52,566/- purportedly due to the audit objection. The balance amount was paid to the petitioner as noted above. As the petitioner was already retired from service on 30.06.2004 and the terminal benefits were paid during the year 2014-2015, the petitioner approached this Court by filing the present writ petition while making the claim for payment

of an amount of Rs.1,52,566/- withheld by the 2nd respondent.

3. As seen from the order in W.P.No.33606 of 2012, dated 21.02.2014, the petitioner has prayed for release of the terminal benefits together with penal interest. However, this Court, while disposing of the said writ petition by an order dated 21.02.2014, allowed the said writ petition with a direction to the respondent therein to release the terminal benefits and to pay the same to the petitioner within a period of eight weeks from the date of receipt of the copy of the said order. Inspite of specific relief sought for payment of penal interest, this Court has not granted any relief granting interest on the alleged delayed payment of terminal benefits to the petitioner. In this connection, it is necessary to notice that by the date of passing of the said order on 21.02.2014 about 10 years have already lapsed since the date of retirement of the petitioner on 30.06.2004. Inspite of the same, this Court has not chosen to grant penal interest as sought for by the petitioner.

4. Be that as it may, the terminal benefits payable to the petitioner were not paid by the 2nd respondent immediately on his superannuation, as the disciplinary proceedings that were initiated by issuing a charge memo dated

25.06.2004 were pending, and the challenge made there against by the petitioner in W.P.No.19890 of 2004 came to an end only on 20.01.2011. Finally, the said order dated 20.01.2011 also attained finality by virtue of orders passed in W.A.No.112 of 2012 dated 15.02.2011. Thus, till 15.02.2012, the 2nd respondent cannot be found fault for non-payment of terminal benefits to the petitioner. Therefore, the claim of the petitioner for payment of interest from the date of his retirement from service till the date of his payment cannot be sustained. Insofar as the claim for payment of Rs.1,52,566/- withheld and adjusted by the 2nd respondent towards audit objection is concerned, absolutely, there is no justification made by the 2nd respondent either in the impugned order or in the counter affidavit filed in the present writ petition in withholding the said amount.

5. No doubt, the 2nd respondent has been claiming certain amounts against the petitioner and also intended to take disciplinary action. However, the said disciplinary action was interdicted by this Court, while granting liberty to the 2nd respondent to initiate appropriate surcharge proceedings under Section 87 of Act, 1983. Inspite of such liberty granted by this Court, the 2nd respondent has not chosen to initiate any such proceedings, either

under Section 87 of Act, 1983 or otherwise against the petitioner. Further, the claim being made by the 2nd respondent against the the petitioner has not crystallized as on date. Such a claim of the 2nd respondent, if any, was prior to 2004, and under no circumstances, the 2nd respondent can be said to be entitled to initiate any proceedings now for recovery of the amounts due to it. Hence, the action of the 2nd respondent in withholding an amount of Rs.1,52,566/- inspite of a specific order passed by this Court to release the terminal benefits in favour of the petitioner cannot be said to be in accordance with law. Thus, the action of the respondents in recovering an amount of Rs.1,52,566/- from the terminal benefits of the petitioner is liable to be declared as illegal and arbitrary and therefore, the petitioner is entitled for the release of the said amount.

6. This Court, having come to the conclusion that the petitioner is not entitled to interest on the delayed payment of the terminal benefits till 15.02.2012, that is, the date on which the W.A.No.112 of 2012 was disposed of, has carefully considered the right of the petitioner to claim interest on the delayed payment of terminal benefits from 16.02.2012. On careful

consideration and perusal of the counter affidavit, this Court is unable to find any justifiable reason for the 2nd respondent in further delaying the payment of terminal benefits after 15.02.2012. In a way such an action on the part of the respondent is contemptuous, as a co-ordinate bench of this Court had already directed the release of terminal benefits within a period of eight weeks, by an order dated 20.01.2011. Therefore, the right of the petitioner to claim interest on the delayed payment of terminal benefits from 16.02.2012 cannot be denied. If such a relief is denied, the same would amount to violation of Article 300A and 21 of the Constitution of India.

7. In the circumstances, this Court is not inclined to interfere with impugned order in its entirety and is of the considered view that appropriate direction to be issued to the 2nd respondent and accordingly there shall be a direction to the 2nd respondent to calculate and pay interest on the delayed payment of the terminal benefits at the rate of 6% per annum with effect from 16.02.2012 together with an amount of Rs.1,52,566/- withheld by the 2nd respondent, as expeditiously as possible, at any rate, within a period of eight (8) weeks from the date of receipt of a copy of this order. It is made clear that the said amount of Rs.1,52,566/- also would carry interest at the rate of 6%

from 16.02.2012.

8. Accordingly, this writ petition is disposed of. The connected miscellaneous petitions, if any,shall stand closed. No costs.

31.01.2025

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

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MUMMINENI SUDHEER KUMAR,J.

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