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W.A.No.3794 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3794 of 2024

Gingee Taluk Cooperative Housing Society
Rep. By its President / Administrator
Gingee – 604 202, Villupuram District. .. Appellant

Vs.

1. A.Munusamy
2. The Registrar of Cooperative Societies (Housing)
Vepery, Chennai – 7.
3. The Deputy Registrar of Cooperative Societies (Housing)
Cuddalore Region
Cuddalore – 607 001. .. Respondents

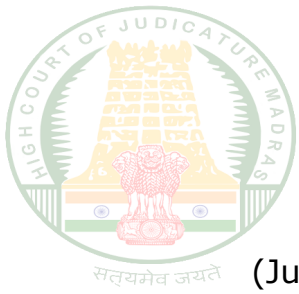
Prayer: Appeal filed under Clause 15 of the Letters Patent, against
the order dated 15.11.2023 in W.P.No.17895 of 2020.

For the Appellant : Mr.P.Anbarasan
for Mr.A.Praveen Kumar

For the Respondents : Mr.M.S.Palaniswamy
for R1

Mr.S.Ravikumar
Special Government Pleader
for R2 and R3

JUDGMENT



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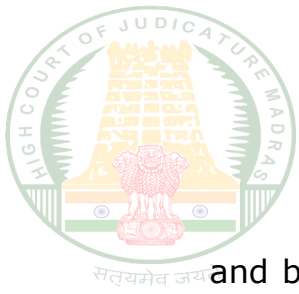
(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This appeal has been directed against the order passed by the

Writ Court dated 15.11.2023 made in W.P.No.17895 of 2020.

2.1. The first respondent was an employee of the appellant Cooperative Housing Society and he retired from service on 30.11.2017, however, his retiral benefits like Gratuity, Provident Fund and Earned Leave Salary have not been paid. In fact, the dispute had gone to the Registrar of Cooperative Societies by way of a revision under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, where, an order has been passed by the Revisional Authority on 09.03.2020.

2.2. It is stated in the order of the Revisional Authority that insofar as Gratuity and Provident Fund are concerned, what shall be the amount payable to the employee shall be calculated and be paid by the Society and insofar as the claim made by the employee with regard to the Earned Leave Salary is concerned, on factual findings, the Revisional Authority has come to the conclusion that out of the total eligibility of 240 days of Earned Leave, only 139 days have been credited in the service register of the employee at the time of his superannuation. Therefore, the said 139 days shall be calculated



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and be paid. That is the sum and substance of the order passed by the Revisional Authority vide order dated 09.03.2020.

2.3. Aggrieved over the said order, the employee approached the Writ Court by filing W.P.No.17895 of 2020, seeking quashment of the said order and seeking payment of Gratuity, Provident Fund, as well as Earned Leave Salary to the extent of Rs.9,21,865/-, Rs.1,22,792/- and Rs.3,36,400/- respectively, altogether totaling to a sum of Rs.13,81,057/-. The learned Writ Court, having heard the matter, disposed the same through the impugned order dated 15.11.2023, whereby, the writ petition was allowed and the said directions were given to the appellant Society to pay the said amount in three heads, as claimed by the first respondent/writ petitioner employee.

3.1. Insofar as the said directions issued by the Writ Court through the impugned order is concerned, it is the grievance of the appellant Society that with regard to Gratuity and Provident Fund, as claimed by the employee, the entirety of Gratuity and Provident Fund have been calculated and paid to him. Insofar as the Leave Salary is concerned, since only 139 days have been credited in his leave credit, amount has been calculated for the said 139 days and



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that has already been paid to the employee.

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3.2. Insofar as the remaining days, that is 101 days, are concerned, which was also claimed by the writ petitioner/first respondent, there has been no findings or no whisper in the order of the learned Single Judge, which is impugned herein, despite the categorical defence taken by the appellant Society in paragraph 7 of the counter affidavit where they have made it very clear that only 139 days have been made in the credit at the time of retirement of the employee, that is on 30.11.2017, the learned Single Judge has given directions to pay full salary for the entire 240 days as Leave Salary to the extent of Rs.3,36,400/-. To that extent, the appellant Society is aggrieved, *Mr.P.Anbarasan*, the learned counsel for the appellant would contend.

4. Heard *Mr.M.S.Palaniswamy*, learned counsel for the first respondent/writ petitioner who would submit that the prayer that was sought before the Writ Court is to quash the order of the Revisional Authority dated 09.03.2020 and to give the benefit of Gratuity, Provident Fund and full Leave Salary with statutory interest at the rate of 12% payable to the employee for the belated payment of Gratuity, Provident Fund as well as Leave Salary.



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Though such a prayer has been asked for, the learned Single Judge has not given any relief with regard to the interest sought by the employee. However, insofar as the Leave Salary is concerned, since it has been fully allowed, as sought by the writ petitioner, the writ petitioner had not chosen to file any appeal.

5. We have heard the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

6.1. Even though the learned Single Judge has given directions through the impugned order on three heads, being, Gratuity, Provident Fund and Leave Salary, insofar as the first two heads are concerned, there has been no dispute, as admittedly, the entire amount has been paid. Insofar as the third category, that is Leave Salary is concerned, the learned Single Judge has given directions to give Leave Salary for the entire 240 days to the credit of the employee calculating to Rs.3,36,400/-.

6.2. In view of the factual matrix, it has been found out by the Revisional Authority that only 139 days' credit have been available at the time of superannuation of the employee, to an extent of



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Rs.1,10,000/- having been calculated and already paid, and this position also is not disputed by the first respondent/writ petitioner.

6.3. Therefore, insofar as the remaining 101 days are concerned, whether the first respondent/writ petitioner employee is entitled to get the entire Leave Salary is the question. In fact, it was raised by the writ petitioner before the Writ Court, however, it has not been considered and no findings have been given by the learned Single Judge in the impugned order. Despite factual findings of the learned Single Judge have been clearly made on the order of the Revisional Authority dated 09.03.2020, insofar as the interest portion claimed by the writ petitioner, though it was raised by the learned counsel appearing for the first respondent/writ petitioner before this Court, admittedly, the fact is that he has not chosen to file an intra-Court appeal against the non-granting of interest, which he sought for the belated payment of such retiral benefits.

7.1. In that view of the matter, we dispose of this writ appeal with the following orders:-

(i) Insofar as the operative portion in paragraph 9



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of the impugned order, directions given by the learned Single Judge with regard to the payment of Gratuity and Provident Fund is concerned, since it has been complied with, the same does not warrant any interference.

(ii) Insofar as the directions given by the learned Single Judge with regard to the payment of the Leave Salary to a sum of Rs.3,34,400/-, by calculating the entire leave period of 240 days to the credit of the employee, is concerned, since the findings given by the Revisional Authority that the credit was only 139 days alone, for which the amount calculated to the extent of Rs.1,10,000/- having been paid already, there can be no further directions by the learned Single Judge to pay the entire leave salary including the remaining 101 days also. More so, in this context, since the learned Single Judge has not given any findings in the impugned order, such a direction would not have been given.

(iii) Therefore, to that extent, the directions given by the learned Single Judge with regard to the payment of Earned Leave Salary for the entire period, including the remaining 101 days, is concerned, it is liable to be set aside, accordingly, the same stands set aside. However, it is open to the respondent/writ petitioner to re-agitate the



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issue, if he is advised to do so, by filing proper proceedings before the Writ Court with regard to the prayer sought by him for interest portion, as well as the remaining leave salary for 101 days.

(iv) The learned counsel appearing for the first respondent/writ petitioner seeks to file a review against the impugned order on the aspects discussed herein above within a period of two weeks. If he files such a review within a period of two weeks from the date of receipt of a copy of this order, the same shall be accepted and disposed of on merits by the Writ Court.

7.2. With these observations, the writ appeal stands partly allowed on the terms indicated above. There shall be no order as to costs.

(R.S.K., J.) (C.S.N, J)
07.01.2025

Neutral Citation:Yes/No

drm



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To:

1. The Registrar of Cooperative Societies (Housing)
Vepery, Chennai – 7.
2. The Deputy Registrar of Cooperative Societies (Housing)
Cuddalore Region
Cuddalore – 607 001.



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C. SARAVANAN, J.
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