



W.P.No.29793 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.11.2025

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THE HONOURABLE MR.JUSTICE G.K. ILANTHIRAIYAN

W.P.No.29793 of 2023

and

WMP.Nos.29389 & 29392 of 2023

R.Bojan

.. Petitioner

Vs.

1. The Registrar of Co-operative
Societies (Housing),
No.48, Ritherdon Salai,
Vepery, Chennai.

2. The Managing Director Tamil Nadu
Co-operative Housing Federation,
No.48, Ritherdon Salai,
Vepery, Chennai.

3. The Deputy Registrar of Co-operative
Societies (Housing), Vellore Region,
Vellore District

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4. NSHG - 36 Thiruvanamalai Taluk Co-operative
Housing Society Ltd.,
Rep by its Administrator / President,
No.5 Shanti Nilayam,
Thendral Nagar,
Thiruvanamalai 606 604

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Certiorarified Mandamus calling for the
records of letter of the 4th respondent dated 21.08.2023 quash the same and
consequently directing the respondents to pay the petitioner's service
benefits of Rs.15,46,428/- with statutory interest at the rate of 10% p.a. from
the date of retirement to till payment.

For Petitioners : Mr.M.S.Palaniswamy

For Respondent : Mr.E.P.Senniyangiri, Govt. Advocate
for R.1 & R.3.

: Mr.S.Kanmani Annamalai
for R.2.

: Mr.R.Neethi Perumal
for R.4.



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ORDER

This Writ Petition has been filed challenging the order passed by the 4th respondent dated 21.08.2023, thereby rejecting the request made by the petitioner seeking terminal benefits.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was appointed as an Office Assistant in the 4th respondent Society on 12.01.1998 and subsequently promoted to the post of Clerk on 01.05.2015. Thereafter, he attained the age of superannuation on 30.04.2023 and he was allowed to retire from service.

4. While the petitioner was in service, the 3rd respondent ordered an



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inspection as contemplated under Section 82 of the Tamil Nadu Cooperative Societies Act with regard to the fixation of pay scale of the employees of the 4th respondent Society. As per the inspection report submitted by the Inspection Officer, the 4th respondent had paid excess salary to its employees and there was a loss of Rs.59,477/-. The Inspection Officer also recommended initiating surcharge proceedings against the petitioner and others. Though the petitioner was permitted to retire from service and had paid the surcharge amount of Rs.53,515/-, thereby being discharged from the charge proceedings, the petitioner was not paid the full terminal benefits. The petitioner was paid only Rs.6,67,634/- out of Rs.22,14,062/-. Therefore, the petitioner submitted a representation for the disbursal of the balance amount. However, it was disposed of with the observation that the business transactions of the society are at a standstill and as of now there is no possibility of paying the retirement benefits. It was further stated that the retirement benefits of the petitioner can be disbursed only if the 2nd



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respondent releases the withheld amount of Rs. 1.70 crores, which is payable

to the 4th respondent.

5. On perusal of the counter affidavit filed by the 3rd respondent revealed that the 2nd respondent by its communication dated 29.10.2021 stated that there is pending release of the Society funds to the tune of Rs.1,93,14,881.41/- which is due to the 4th respondent Society. Therefore, the 4th respondent is unable to settle terminal benefits to the retired employees. If the 2nd respondent releases the due amount, the 4th respondent can settle the terminal benefits to the retired employees including the petitioner herein.

6. On perusal of the counter filed by the 2nd respondent and also on the submission made by Mr.S.Kanmani Annamalai learned counsel for the 2nd respondent, it is revealed that the 2nd respondent is not withholding any



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service benefit of the petitioner. In fact, the amount already paid to the petitioner was paid directly by the 2nd respondent. Further, there is no employer–employee relationship between the 2nd respondent and the petitioner, and therefore, the 2nd respondent cannot be held liable at any cost.

7. Admittedly, the petitioner retired from service of the 4th respondent society and he was paid terminal benefits only Rs.6,67,634/- out of Rs.22,14,062/. As per the averments of the 3rd and 4th respondents, the 2nd respondent is liable to pay an outstanding amount of Rs. 1 crore and odd to the 4th respondent society. Further, the specific contention of the 2nd respondent is that there is no employer-employee relationship between the petitioner and the 2nd respondent. The arrears of salary and other benefits have to be settled between the employer and the employee, namely, the 4th respondent and the petitioner. Therefore, the 4th respondents cannot foist



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liability on the 2nd respondent to settle the terminal benefits of their own employees. Even assuming that any amount is due from the 2nd respondent to the 4th respondent society, it has nothing to do with the petitioner's claim, as there is no employer–employee relationship between the petitioner and the 2nd respondent. It is only the 4th respondent society that is liable to pay the petitioner.

8. In view of the above, the impugned order passed by the 4th respondent dated 21.08.2023 is liable to be quashed and accordingly quashed. Respondents 3 and 4 are directed to disburse the remaining terminal benefits of the petitioner with applicable interest from the date of his retirement till the date of actual payment.

9. With the above directions, the Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.



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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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