

(2011) 04 MP CK 0053

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1005 of 2010 (S)

Prabhakar Singh

APPELLANT

Vs

District Co-operative Agricultural and Rural Development
Bank and Another

RESPONDENT

Date of Decision : 26-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 2 MPJR 398

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Judgement

Rajendra Menon, J.

Contending that after his reinstatement in pursuance to the orders passed quashing his compulsory retirement, arrears of salary and increment for the period when the Petitioner remained out of employment have not been paid, this writ petition has been filed.

Records indicate that Petitioner was compulsorily retired in July 2002. Petitioner challenged the same by raising a dispute u/s 55 of the M.P. Co-operative Societies Act before the Joint Registrar, Co-operative Societies, Rewa and vide order-dated 20.9.2002 - Annexure P/1, the compulsory retirement of the Petitioner was quashed and the Petitioner was directed to be reinstated in service. The order passed by the Joint Registrar was challenged by the Respondent Bank before this Court in W.P. No. 5624/2002 and the same was dismissed by this Court on 24.6.2003, available at page 18. Challenge made to the Supreme Court by the Respondent Bank having met the same fate as is evident from Annexure P/2, available at page 29, it is seen that the Petitioner was reinstated and thereafter certain dispute arose again with regard to grant of arrears of salary and other benefits. Accordingly, Petitioner filed W.P. No. 5419/2004(s) and a Bench of this Court vide order-dated 26.10.2005 - Annexure P/3 directed the Respondents to reinstate the Petitioner and settle all his claims.

In para 5 of the order passed by this Court, in W.P. No. 5419/2004(s), a direction was issued to pay arrears of salary to the Petitioner with effect from 20.9.2000 alongwith interest at the rate of 5% per annum. When the order was not complied with, Contempt Petition No. 997/2009 was filed and when a sum of Rs. 34,900/- was paid to the Petitioner, the contempt petition was disposed of on 30.10.2009, granting liberty to the Petitioner to claim further benefit, if any, by approaching the Respondents and the Respondents were directed to decide the same by a speaking order. Accordingly, vide Annexure P/5 dated 13.11.2009, certain increments have been added and after deducting the PF contribution, according to the Respondents the amount was paid to the Petitioner i.e... Rs. 34,900/- alongwith interest at the rate of 5%.

Now, in this writ petition, Petitioner contends that the amount paid is not proper, his increments after July 2004 have not been released and the calculation made is not correct. Accordingly, by submitting a representation - Annexure P/6, Petitioner claimed payment of a sum of Rs. 69,212/-, which according to him remains unpaid.

Respondents have filed return and they have stated that all the amounts due to the Petitioner in accordance to the calculation have been paid and nothing further remains to be paid.

Even though Shri Sandeep Singh, learned Counsel for the Petitioner, tried to emphasize that increments have not been released to the Petitioner for the period after July 2004 and the amount paid is not in accordance to the entitlement of the Petitioner, the dispute now in this writ petition pertains to calculation of the benefit accruing to the Petitioner with regard to payment of arrears of salary, increments etc and the same is a disputed question of fact warranting adjudication into factual aspects of the matter. A writ court exercising jurisdiction in a petition under Article 226 of the Constitution, is not expected to enter into this area of fact finding enquiry and calculate the amount actually payable to the Petitioner when under the M.P. Co-operative Societies Act a statutory remedy is available to the Petitioner u/s 55, where all the factual aspects of the matter with regard to Petitioner's entitlement, calculation of the amount and the quantification can be easily done.

As the Petitioner has an efficacious alternative remedy available of approaching the competent authority under the M.P. Cooperative Societies Act, 1960, this Court does not deem it appropriate to interfere in the matter in these proceedings, as the matter now crystals down to a dispute pertaining to calculation and quantification of the monetary benefits to be paid to the Petitioner.

Accordingly, finding an efficacious alternative remedy available to the Petitioner under the M.P. Co-operative Societies Act, this petition is disposed of with the following directions:

On the Petitioner's filing a certified copy of this order alongwith a detailed claim

with regard to the amount, which remains unpaid, the competent authority authorized under the M.P. Co-operative Societies Act, after summoning the records and hearing the Respondent bank, shall adjudicate and decide the claim of the Petitioner in accordance with law, within a period of 45 days from the date of filing of the application by the Petitioner.

With the aforesaid observations, the petition stands disposed of.