IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.05.2017

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.13010 of 2017
and W.M.P.No.13884 of 2017

1.E.Alagesan
2.M.E.Moorthi
3.L.Vedachalam
4.G.Rajendran
5.K.Rajasekaran
6.R.Ganesan
7.S.Jayakumar
8.S.Vasantha
9.R.Narasimman
10.B.Ashok Kumar
11.M.Seenivasan
12.G.A.Robert Immanuel
13.J.Uma
14.R.P.Rajeshwari
15.B.Vasantha Kumari
16.C.Selvaraj
17.S.K.Arun Rashid
18.G.Kumaran
19.S.Mohan
20.T.Gangatharan
21.A.Devaraj
22.M.Gopalan
23.R.Krishnan
24.A.Bharaswajan
25.R.Nandakumar
26.K.Kalaiselvan
27.C.Rajasekhar
28.P.N.Ashok
29.T.Selvakalathi

30.P.Mani
31.V.Sekarbabu
32.P.Subramanian
33.G.N.Kasturi
34.S.Dhanapalan
35.K.Kaliappan .. Petitioners

Vs.

1.The State of Tamil Nadu,
Re. By the Secretary & Commissioner,
Cooperation, Food and Consumer,
Protection Department,
Secretariat, Chennai – 9.

2.The Registrar of Co-operative Societies,
Kilpauk, Chennai – 10.

3.The Chennai Central Cooperative Bank,
Prakasam Salai,
Chennai – 108, Rep by the
Managing Director. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents to pay at least the minimum pension not exceeding Rs.15000 or 20000/- p.m. from the Ex-gratia Corpus Fund otherwise called the Retired Employees Ex-gratia Pension Corpus Fund or atleast the amount of Rs.3500/- in addition to the Employees Provident Fund Amount being paid to the petitioners with effect from the date of retirement of the petitioners by adopting the benefit given to the employees of Tamil Nadu Cooperative Milk Producers Federation Ltd., and District Cooperative Milk Producers' Union by way of G.O.(Ms)No.186, Animal Husbandary, Dairying and Fisheries (MP-II) Department, dated 16.12.2016.

For Petitioners : Mr.Singaravelan, SC
for Mr.M.Srividhya

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

Mr.L.P.Shanmugasundaram, learned Special Government Pleader accepts notice on behalf of the respondents. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioners would state that they are the retired employees and they were paid a sum of Rs.3,500/- as Ex-gratia Pension. It is stated by the petitioners that the Government by G.O.Ms.No.186, Animal Husbandry, Dairying & Fisheries (MP.II) Department, has sanctioned Ex-gratia Pension/Ex-gratia family pension to the employees of Tamil Nadu Co-operative Milk Producers' Federation and 17 District Co-operative Milk Producers' Union, who retired from service on 16.11.1995 onwards. In the said G.O., in Claus 5 (iii), it is specifically stated that the payment of ex-gratia pension or ex-gratia family pension is in addition to pension eligible under the Employees Pension Scheme 1995, whereas, for the employees, who are not covered under the Employees Pension Scheme 1995, a sum of Rs.3,500/- was adjusted from their regular pension.

3. It is the grievance of the petitioners that there is discrimination between the employees of the same organization holding the same post on the

basis of the cut off date in respect of their entitlement to the pension amount. Hence, the petitioners came forward to file this writ petition.

4. The learned Senior Counsel appearing for the petitioners would submit that in the judgment of the Hon'ble Supreme Court in ***D.S.NAKARA AND OTHERS VS. UNION OF INDIA [1983 SCR (2) 165]*** it has been held that there shall not be any discrimination on the basis of date of retirement for the employees for grant of pension. He further submits that the discrimination between the employees, who retired before 1995 and the employees, who retired after 1995 is arbitrary and it is in violation of Article 14 of the Constitution of India.

5. The learned Senior Counsel appearing for the petitioners would restrict his prayer that it would suffice if the representation made by the petitioners dated 03.03.2017 is disposed of in the light of the judgment of the Hon'ble Supreme Court cited supra.

6. Accordingly, this Court directs the respondents to consider the representation of the petitioners dated 03.03.2017 and pass orders, on merits and in accordance with law and as per the judgment of the Hon'ble Supreme Court in ***D.S.NAKARA AND OTHERS VS. UNION OF INDIA [1983 SCR (2) 165]*** within a period of six weeks from the date of receipt of a copy of this order

and communicate the result to the petitioners.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

19.05.2017

Index : Yes/No
Internet : Yes/No
vsm

To

1. The Secretary & Commissioner
   Government of Tamil Nadu
   Cooperation, Food and Consumer
   Protection Department,
   Secretariat, Chennai – 9.

2. The Registrar of Co-operative Societies,
   Kilpauk,
   Chennai – 10.

M.GOVINDARAJ, J.

vsm

W.P.No.13010 of 2017

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