

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30041 of 2016 &

W.M.P.No.26040 of 2016

1.T.Kasturi Bai

2.V.Aneesh

.... Petitioners

Vs.

The Join Registrar/Managing Director
The Park Town Co-operative Wholesale Stores
No.G-133, First Main Road
Anna Nagar East
Chennai 600 102.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the proceedings of the respondent in R.C.No.181/11-12/E7 dated 02.01.2015 and quash the same so far as it states *(1) For the period from 13.10.1990 to 02.08.2010 the delinquent is entitled to continuity of services without monitory benefit and his pay and other benefits will be fixed notionally and will be settled to the legal heirs (2).The said delinquent is not entitled to backwages as per the order of the Hon'ble Apex Court rulings that "no work no pay" and (3). The amount misappropriated by the delinquent during his services be recovered with interest from the terminal benefits payable to the legal heirs" and direct the respondent to pay salary from 1.3.1990 to 20.08.2010 with all other benefits in respect of the services of Late Vijayakumar to the petitioners, fix pensionary benefits and pay family pension with accrued interest thereon to the petitioners.

For Petitioners

:Mr.P.N.George Graham
for M/S. DEVADASON & SAGAR

For Respondents

:Mr.L.P.Shanmugasundaram
Spl.Government Pleader

* * * * *

O R D E R

The Writ Petitioner's husband Late R.Vijaya Kumar was an

employee of the respondent-Co-operative Society and the order passed by the Managing Director of the Co-Operative Societies in proceedings dated 02.01.2015, is under challenge in this Writ Petition.

2.However, the remedy lies to the writ petitioners by way of Revision under section 153 of the Tamil Nadu Co-Operative Societies Act, to redress their grievances.

3.Co-operative Society is not a State within the meaning of Article 12 of the Constitution of India. Accordingly, no writ will lie against the actions initiated by the Co-Operative Society. The said legal principle has already been decided by the Larger Bench of this Court in Marappan and others Vs. Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689. Thus, it is left open to the writ petitioners to approach the competent authorities under section 153 of the Tamil Nadu Co-Operative Societies Act, to redress their grievances. In view of the fact that a mechanism is provided under the Tamil Nadu Co-operative Societies Act to redress the grievances of their employees and in view of the Larger Bench decision of this Court, no writ can be issued by exercising the power under Article 226 of the Constitution of India. Thus, this Court is not inclined to consider the issues raised in the Writ Petition.

4.Accordingly, the Writ Petition stands dismissed as not maintainable. No costs. Consequently, connected Miscellaneous Petition stands closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

rpa

To

The Join Registrar/Managing Director
The Park Town Co-operative Wholesale Stores
No.G-133, First Main Road
Anna Nagar East
Chennai 600 102.

+1 CC TO M/S.L.P.SHANMUGASUNDARAM Advocate SR.NO. 70192

+1 cc TO M/S. DEVADASON & SAGAR Advocate SR.NO. 70259

+1 cc To Government pleader SR.NO. 70809

W.P.No.30041 of 2016

RD 13/10/2017