



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

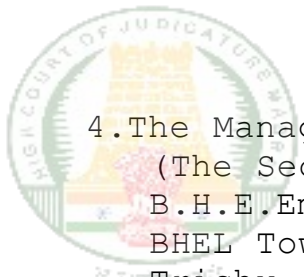
W.A (MD) Nos.660 to 680 of 2017
in

W.P (MD) Nos.15168 to 15188 of 2016

K.Subramanian	..	Petitioner in W.A.(MD)No.660 of 2017
E.Manickavel	..	Petitioner in W.A.(MD)No.661 of 2017
R.Mariappan	..	Petitioner in W.A.(MD)No.662 of 2017
R.Arumugasamy	..	Petitioner in W.A.(MD)No.663 of 2017
J.Rosari Albert	..	Petitioner in W.A.(MD)No.664 of 2017
S.Vijayakumar	..	Petitioner in W.A.(MD)No.665 of 2017
A.Raja	..	Petitioner in W.A.(MD)No.666 of 2017
A.Amaladoss Monsing	..	Petitioner in W.A.(MD)No.667 of 2017
A.Arockiadoss Kennedy	..	Petitioner in W.A.(MD)No.668 of 2017
M.Palanivelu	..	Petitioner in W.A.(MD)No.669 of 2017
P.Marulasankaran	..	Petitioner in W.A.(MD)No.670 of 2017
P.Somasekar	..	Petitioner in W.A.(MD)No.671 of 2017
P.Annadurai	..	Petitioner in W.A.(MD)No.672 of 2017
R.Immanuvel Sekar	..	Petitioner in W.A.(MD)No.673 of 2017
P.Jayasimhan	..	Petitioner in W.A.(MD)No.674 of 2017
A.Jayasellan	..	Petitioner in W.A.(MD)No.675 of 2017
A.Josephrajan	..	Petitioner in W.A.(MD)No.676 of 2017
S.Lawrance Arockiaraj	..	Petitioner in W.A.(MD)No.677 of 2017
R.Manavalan	..	Petitioner in W.A.(MD)No.678 of 2017
A.Arokiadoss	..	Petitioner in W.A.(MD)No.679 of 2017
S.Josphin Mary	..	Petitioner in W.A.(MD)No.680 of 2017

vs.

- 1.The Registrar,
Department of Cooperative Societies
No.170, Periyar EVR Salai,
Kilpauk, Chennai - 10.
- 2.The Joint Registrar,
Department of Co-operative Societies,
Trichy Region, Trichy- 620 020.
- 3.The Deputy Registrar,
Department of Co-operative Societies,
Trichy Region, Trichy- 620 020.



4.The Managing Director (DGM/Finance/BHEL),
(The Secretary)
B.H.E.Employees Co-operative Bank Ltd (ECB),
BHEL Township, Kailasapuram,
Trichy - 620 014.

5.The Secretary (DGM/HR/BHEL),
(The Special Officer)
B.H.E.L Complex Co-Operative Labour Contract Society Ltd.(LCS),
No.y.t.11, Dr.Ambedkar Nagar,
R.Sector Township.
Kailasapuram,
Tiruchy - 620014.

... Respondents / Respondents
(in all Writ Appeals)

Prayer: (In all Writ Appeals) Writ Appeals are filed under clause 15 of Letter Patent Act, praying to against the order passed by learned Single Judge in W.P.(MD)Nos.15168 to 15188 of 2016, dated 07.02.2017 and order was posted for being mentioned date 02.03.2017.

Prayer in WP(MD) . 15168/ 2016 :

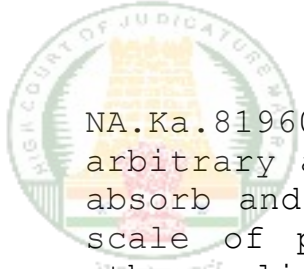
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81959/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15169/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81979/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb my services and to give the notional appointment with pensioner benefits (as per ECB norms) and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court may deem fit.

Prayer in WP(MD) . 15170/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order



NA.Ka.81960/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15171/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81961/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15172/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81962/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court may deem fit.

Prayer in WP(MD) . 15173/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81963/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15174/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81964/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.



Prayer in WP(MD) . 15175/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81965/2015/sabal dated 15.02.2016 and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court.

Prayer in WP(MD) . 15176/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81966/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled.

Prayer in WP(MD) . 15177/ 2016 :

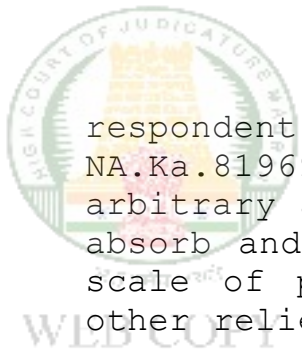
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81967/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15178/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81968/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court may deem fit.

Prayer in WP(MD) . 15179/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st



respondent in his proceedings in review petition order NA.Ka.81969/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled.

Prayer in WP(MD) . 15180/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81970/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15181/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81971/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court may deem fit.

Prayer in WP(MD) . 15182/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81972/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled.

Prayer in WP(MD) . 15183/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81973/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and



other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15184/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81974/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court may deem fit.

Prayer in WP(MD) . 15185/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81975/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled.

Prayer in WP(MD) . 15186/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81976/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

Prayer in WP(MD) . 15187/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in his proceedings in review petition order Na.Ka.81977/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to and pass such further or other orders as this Honble Court may deem fit.



Prayer in WP(MD) . 15188/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in review petition order NA.Ka.81978/2015/sabal dated 15.02.16, and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner's husband services and to give the notional appointment with pensioner benefits(as per ECB norms) and all other attendant and monetary benefits and other reliefs which the petitioner's husband is entitled to.

For Appellants : Mr.K.M.Boopathy
(in all Writ Appeals)

For R1 to R3 : Mr.VR.Shanmuganathan,
Special Government Pleader.

For R 4 : Mr.Raguvaran Gopalan
For R 5 : Mr.T.S.Sakthi Kumaran

(In all Writ Appeals)

COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.M.Boopathy, learned counsel appearing for the appellants in all Writ Appeals, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3, Mr.Raguvaran Gopalan, learned counsel appearing for the 4th respondent and Mr.T.S.Sakthi Kumaran, learned counsel appearing for the 5th respondent.

2.By consent, the Writ Appeals are taken up for final disposal.

3.These Writ Appeals have been filed against the order dated 07.02.2017 made in W.P(MD)No.15168 of 2016 and etc batch.

4.The appellants/petitioners in those writ petitions,sought for varied prayers essentially to set aside the order passed by the Registrar, Co-operative Societies and to direct the respondents to absorb them and regularize their services along with time scale of pay and all other attendant and monetary benefits and other reliefs. The Writ Petitions were disposed of by the Writ Court, after elaborately hearing the parties by the impugned order dated 07.02.2017. The operative portion, reads as follows:

"15.Accordingly, these writ petitions are disposed

<https://hcservices.ecourts.gov.in/hcservices/> of with the following directions:

(i) If the petitioners raise dispute before the



Industrial Disputes Forum with regard to abolition of contract labour system, through their Union, the Industrial Disputes Forum shall go into the aspect of regularization of their services.

(ii) If the Industrial Disputes Forum comes to the conclusion that the contract labour system is sham and nominal, the Industrial Disputes Forum has got powers to order reinstatement apart from regularization of service.

(iii) If the Industrial Disputes Forum comes to the conclusion that the contract labour system is genuine, the Industrial Disputes Forum shall direct the petitioners to approach the Authority under the Contract Labour (Regulation and Abolition) Act, 1970.

(iv) Since the petitioners are already suffering without knowing that under whom they are employees and some of the petitioners are almost at the verge of retirement, they should not be made to suffer endlessly. Hence, incase the petitioners raise industrial dispute, as mentioned supra, the Conciliation Officer is expected to conciliate and refer the dispute with regard to regularization of the petitioners under the fourth respondent to the appropriate Forum and the appropriate Forum shall decide the status of the employees and incase, it comes to the conclusion that the petitioners are employees of the fourth respondent, it can order to grant the relief sought for and in case it comes to the conclusion that they are contract employees, it can direct the petitioners to approach the Authority under the Contract Labour (Regulation and Abolition) Act, 1970 seeking abolition of the Labour Contract System. However, the service of the petitioners as on date shall not be disturbed and they shall be allowed to continue until a final decision is taken in this matter. Status quo as on date to be maintained till the issue come to a logical conclusion.

(v) It is open to the petitioners to raise industrial dispute within a period of one month from the date of receipt of a copy of this order and the petitioners are expected to co-operate for early disposal of their dispute before the Industrial Disputes Forum and incase of reference, the Authority under the Contract Labour (Regulation and Abolition) Act, 1970 is expected to dispose of the dispute within a period of six months thereafter. It is needless to say that the observations made hereinabove, touching the merits of the matter would not stand in the way of the parties from putting forth their pleas before the appropriate Authority concerned in coming to the conclusion independently.



(vi) Before parting with the matter, if there is a dispute raised under Section 2(k) of the I.D.Act, the Government is expected to take into account Section 10(1) of the said Act apart from the principles laid down in the decision of this Court in Ramakrishna Mills (Coimbatore) Ltd., vs. Government of Tamil Nadu, reported in (1984) II LLJ 259 Mad. The procedure indicated under Section 12 of the I.D.Act is not a bar for the appropriate Government to examine its power under Section 10(1) of the said Act. Without a failure report, during the pendency of conciliation, the Government is empowered to invoke Section 10(1) of the said Act. No costs. Consequently, connected miscellaneous petitions are closed."

5. On a perusal of the above directions, we find that the same would protect the interest of the appellants and there can be no other view other than the view taken by the Writ Court. On the facts and circumstances of the case, the appellants are not aggrieved by the directions issued by the Writ Court, but have preferred these appeals seeking certain clarification so as to enable them to move before the appropriate forum in terms of the directions issued by the Writ Court. The Writ Court directed the appellants to approach the Industrial Disputes Forum and agitate the matter before the said forum. The Writ Court also stated that the process of conciliation could be adopted and if the conciliation fails, the appellants can approach the Industrial Disputes Forum. The problem has arisen for the appellants is because they are not clear as to which the Industrial Disputes Forum, they should approach as it appears that they approached the Central Government Industrial Tribunal and presented a petition, which was not entertained on the ground that the relief sought for by the appellants is as against a co-operative Society, which is registered under the provisions of Tamil Nadu Co-operative Society Act, 1983. Thus, to overcome this problem, they have preferred these appeals. As observed earlier, the appellants cannot be stated to be aggrieved by any of the directions issued by the Writ Court. Therefore, nothing more is required than to clarify as to which forum the appellants should approach and the modalities that have to be adhered to.

6. In our considered view, no useful purpose would be served by directing the parties to initiate conciliation proceedings considering the nature of dispute between the parties and the earlier order passed in such disputes and also taking note of the fact that the respondent/Co-operative Society is governed by the provisions of the Co-operative Societies Act and at present managed by a Special Officer. Therefore, we are of the considered view that the appellants should raise individual disputes before the appropriate Industrial Disputes Forum, which in our opinion is a State Industrial Tribunal, Chennai.



7. Therefore we dispose of these appeals, by directing the appellants to file individual claim petition before the State Industrial Tribunal, Chennai and if the said petitions are filed, the State Industrial Tribunal is directed to take up the matter and consider the case, after issuing notice to all the parties and affording them full and effective opportunity to lead oral and documentary evidence before it.

8. It is submitted by the learned counsel for the appellant that the Writ Court while disposing of the Writ petitions, stipulated an outer time limit of six months for the concerned Industrial Disputes Forum to conclude the proceedings and prayer for similar direction the disputes are yet to be raised before the State Industrial Tribunal we are not inclined to grant any specific time limit for disposal of the matters. However considering the fact, that already four years had lapsed we request the Tribunal to expedite the disposal of the matter, provided all parties extend full co-operation and endeavour complete the same, within a period of six months from the date of which the pleadings are completed.

Sd/-

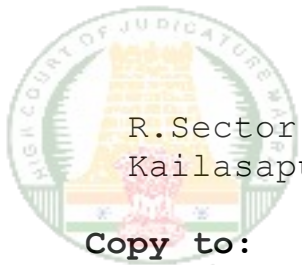
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Registrar,
Department of Cooperative Societies
No.170, Periyar EVR Salai,
Kilpauk, Chennai - 10.
2. The Joint Registrar,
Department of Co-operative Societies,
Trichy Region, Trichy- 620 020.
3. The Deputy Registrar,
Department of Co-operative Societies,
Trichy Region, Trichy- 620 020.
4. The Managing Director (DGM/Finance/BHEL),
(The Secretary)
B.H.E. Employees Co-operative Bank Ltd (ECB),
BHEL Township, Kailasapuram, Trichy - 620 014.
5. The Secretary (DGM/HR/BHEL),
(The Court Services Officer)
B.H.E.L Complex Co-Operative Labour Contract Society Ltd.(LCS),
No.y.t.11, Dr.Ambedkar Nagar,



R.Sector Township.
Kailasapuram, Tiruchy - 620014.

Copy to:

The State Industrial Tribunal, Chennai.

WEB COPY

+21cc to Mr. K.M.Boopathy, Advocate,SR.60712

+1cc to Mr. T.Sakthi Kumaran, Advocate,SR.60719

W.A(MD)Nos.660 to 680 of 2017
15.06.2017

MYR/DSS

KK/SKN/SAR3-10.07.2017-11P-29C