

IN THE HIGH COURT OF JUDICATURE AT MADRAS

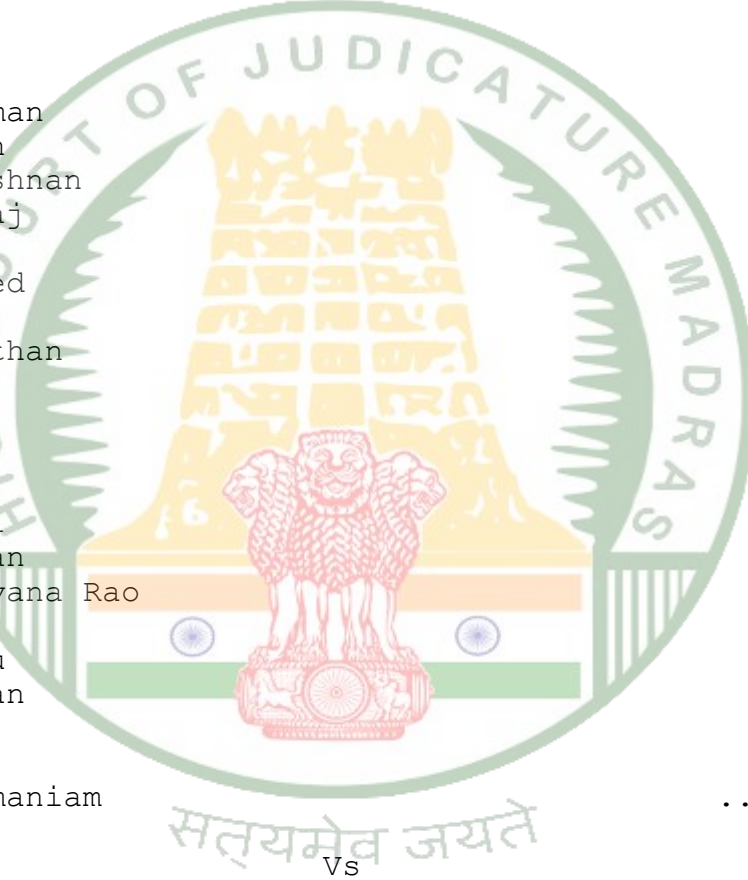
DATED: 04.11.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.NO.24711 OF 2007

- 1.K.B.Srinivasan
- 2.N.Chandrasekaran
- 3.B.V.Mohan
- 4.R.Munusamy
- 5.E.V.Ramasamy
- 6.G.Kothandaraman
- 7.T.Mailazhagan
- 8.S.Chinni Krishnan
- 9.M.G.Sundararaj
- 10.C.S.Ramesh
- 11.A.Nisar Ahmed
- 12.N.Harinath
- 13.T.Sathiyathan
- 14.K.K.Raja
- 15.G.Sekar
- 16.G.Selvaraj
- 17.S.Kandasamy
- 18.P.Chakrapani
- 19.T.K.Hariharan
- 20.N.Suryanarayana Rao
- 21.G.Pasupathy
- 22.A.D.Balaguru
- 23.T.Vilwanathan
- 24.V.C.Gopal
- 25.B.Chandran
- 26.I.Balasubramaniam



..Petitioners

Vs

1. The Secretary,
The Railway Employees Co-operative
Credit Society Ltd.,
Old Zoo Road, Ashok Vihar Complex,
Chennai - 600 003.
2. The Trustees,
Staff Retirement Benefit Fund,
The Railway Employees Co-operative
Credit Society Ltd.,
Old Zoo Road, Ashok Vihar Complex,
Chennai - 600 003.

3. The Joint Registrar of Co-operative Societies,
91, St.Mary's Road,
Abiramapuram, Chennai - 600 018.

4. The Central Registrar,
Ministry of Agriculture and Co-operation,
Krishi Bhavan,
New Delhi - 110 001.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of declaration, declaring the Board of Management Resolution dated 15.12.2004 of the 1 and 2 respondent as illegal and unjust insofar as it seeks to ratify the decision to wind up the Staff Retirement Benefit Fund Scheme and to direct the respondents to continue to pay pension/financial assistance to the petitioner.

For Petitioners : Ms.N.S.Tanvi
for Mrs.D.Nagasaila

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader for R3
No appearance for R1, R2 and R4

O R D E R

The petitioners have come forward with the present writ petition seeking to declare the Board of Management Resolution dated 15.12.2004 passed by the respondents 1 and 2 as illegal and unjust insofar as the resolution ratifies the decision to wind up the Staff Retirement Benefit Fund Scheme and to direct the respondents to continue to pay pension/financial assistance to the petitioners.

2.1 According to the petitioners, they were employed in various capacities in the Railway Employees Co-Operative Society Limited, Chennai (herein after referred to as 'the Society'). The petitioners have also put in a long years of service and retired from service either by superannuation or by opting voluntary retirement. It is further stated that the Society floated a pension scheme for the purpose of giving monthly pension to the employees after their retirement. As per the scheme, the employees having service upto 10 years and below are to contribute monthly contribution at the rate of 3% of the basic pay and for the employees having service of more than ten years for retirement, the contribution was fixed at 2% of the basic pay. The Society was expected to contribute in an equal

proportion. The pension scheme was made operational with effect from 01.07.1987. The petitioners were all making contributions towards the pension scheme. Subsequently, as per the circular dated 8.3.2001, all the employees of the Society were informed that the Board of Management has taken a decision to club the Staff Recruitment Board fund with Life Insurance Corporation of India as a permanent measure. Subsequently, the said scheme was withdrawn.

2.2 However, in the meanwhile, the Society announced a Voluntary Retirement Scheme on 29.01.1999 and applications were invited. The petitioners had also submitted their applications for voluntary retirement expecting that even after the voluntary retirement, they would be given the pensionary benefits as per the pension scheme, which was in operation from 01.07.1987. Subsequently, the petitioners came to understand that the pension scheme was abolished and the letters which were taken from them relates to their acceptance of the decision taken by the Society to withdraw the pension scheme. According to the petitioners, there was no amendment to bye-laws of the Society and by amending the Subsidiary Regulations, it is not open to the Society to discontinue the pension scheme. Hence, the petitioners made their representations to the respondents seeking pension or financial assistance and the same was rejected by the respondents 1 and 2. Challenging the same, the present writ petition.

3. Heard the learned counsel for the petitioners and the learned Special Government Pleader for the third respondent. There is no representation for the respondents 1, 2 and 4 and perused the materials available on record.

4. The learned counsel for the petitioner would submit that the issue involved in this writ petition is squarely covered by the earlier order of this Court in W.A.Nos.572 of 2007 etc., batch, dated 14.07.2010.

5. In W.A.Nos.572 of 2007 etc., batch, dated 14.07.2010, the Division Bench of this Court has held as follows:-

'14. The issues now raised by the appellants in these appeals were considered extensively by the learned Single Judge and we do not find any reason to disagree with the findings arrived at by the learned Single Judge. Though the Society was justified in withdrawing the Scheme, they are liable to refund the contribution collected from the appellants.

15. The learned Senior Counsel appearing for the respondent Society fairly conceded that the appellants are entitled to get the contribution paid by them. In such circumstances, we are of the view that the interest of justice would be served by directing the first respondent Society to pay the amount received from the appellants with interest at the rate of 9% per annum and such payment should be paid within a period of four weeks from the date of receipt of a copy of this judgment. In the connected writ petitions filed by the workmen in accordance with the direction given in the Writ Appeals, the Society is directed to pay the amount received from the petitioners with interest at the rate of 9% per annum which should be paid within a period of four weeks from the date of receipt of this judgment.

16. The writ appeals and the writ petitions are dismissed with the above direction to refund the contribution already paid by the appellants/petitioners. No costs. Consequently, the connected miscellaneous petitions are closed."

6. In the light of the above submissions made by the learned counsel for the petitioners, this Court is of the considered opinion that the order passed in the earlier writ appeals and writ petitions are squarely applicable to the facts of the present case and the writ petition stands dismissed, by making the decision aforesaid applicable to the case of the petitioners. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The Railway Employees Co-operative
Credit Society Ltd.,
Old Zoo Road, Ashok Vihar Complex,
Chennai - 600 003.

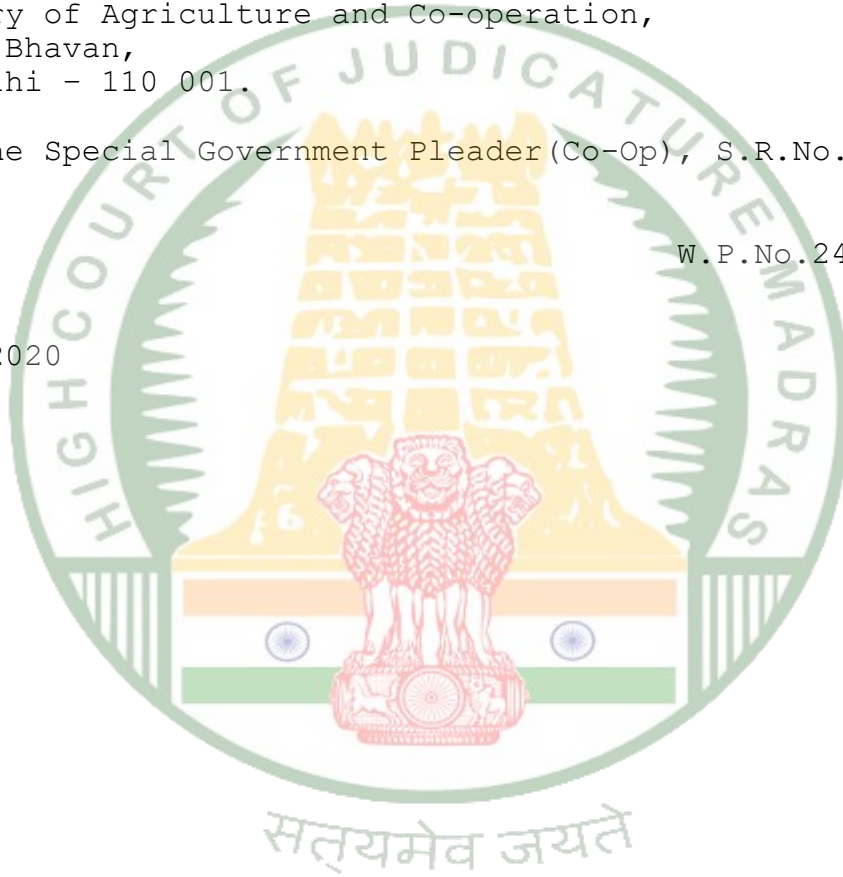
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2. The Trustees,
Staff Retirement Benefit Fund,
The Railway Employees Co-operative
Credit Society Ltd.,
Old Zoo Road, Ashok Vihar Complex,
Chennai - 600 003.
3. The Joint Registrar of Co-operative Societies,
91, St.Mary's Road,
Abiramapuram, Chennai - 600 018.
4. The Central Registrar,
Ministry of Agriculture and Co-operation,
Krishi Bhavan,
New Delhi - 110 001.

+1cc to the Special Government Pleader(Co-Op), S.R.No.35898

W.P.No.24711 of 2007

RR(CO)
CS/15/12/2020



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