

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.Nos.27950 of 2013, 34659 of 2014, 23380 and 38382 of 2015
and
MP Nos.1 of 2013 and 1 of 2015

Dharmapuri Mavatta Madhiya Kootruvu Vangi
Anna Paniyalar Sangam,
Regd. No.130/DRP
Rep. By its General Secretary,
V.K. Kumaresan Petitioner in W.P.
No.27950 of 2013

The Dharmapuri District Central Co-operative
Bank Retired Employees Association,
3A, Veeraghavan Street,
Dharmapuri - 636 701,
Rep. By its General Secretary,
P.Periyasamy Petitioner in W.P.
No.34659 of 2014

C.Perumal Petitioner in W.P.
No.23380 of 2015

E.Krishnamoorthy Petitioner in W.P.
No.38382 of 2015

Versus

1. Tamil Nadu Co-operative Societies,
Rep. By its Registrar,
170, Periyar E.V.R. High Road,
Kilpauk,
Chennai - 600 010.

2. The Joint Registrar / Managing Director,
Dharmapuri District Central Co-operative Bank Ltd.,
10H, Nethaji Bypass Road,
Dharmapuri - 636 701. ... Respondents in all W.P.s

Prayer in W.P. No.27950 of 2013 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pay the withheld arrears of Selection Grade salary of the members of the petitioner trade union or to their legal heirs of the deceased employee accrued upto date with interest at the rate of 12% per annum from the date of eligibility to the date of actual payment.

Prayer in W.P. No.34659 of 2014 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in R.C. No.112908/2013/CBS1, dated 08.12.2014 and to quash the same and consequently directing the respondents to make the payment of withheld arrears of Selection Grade salary to the members of petitioner Association along with interest at the rate of 12% per annum from the date of orders passed by Hon'ble Supreme Court in SLP(C) No.39075 of 2012, dated 11.01.2013 forthwith.

Prayer in W.P. No.23380 of 2015 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in R.C. No.112908/2013/CBS1, dated 08.12.2014 and to quash the same and consequently directing the respondents to make the payment of withheld arrears of Selection Grade salary to the petitioner along with interest at the rate of 12% per annum from the date of orders passed by Hon'ble Supreme Court in SLP(C) No.39075 of 2012, dated 11.01.2013 forthwith.

Prayer in W.P. No.38382 of 2015 : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in R.C. No.112908/2013/CBS1, dated 08.12.2014 and to quash the same and consequently directing the respondents to make the payment of withheld arrears of Selection Grade salary to the petitioner along with interest at the rate of 12% per annum from the date of orders passed by Hon'ble Supreme Court in SLP(C) No.39075 of 2012, dated 11.01.2013 forthwith.

For Petitioner
in WP No.27950 of 2013 : Mr.G.Ethirajulu

For Petitioner
in WP Nos.34659 of 2014
23380 of 2015,
38382 of 2015 : Mr.G.Sankaran

For Respondents
in all W.P.s : Mr.L.P.Shanmuga Sundaram
Spl. Govt. Pleader
(Co-op) for R1
Mr.M.S.Palanisamy for R2

COMMON ORDER

Petitioners in writ petitions Nos.34659 of 2014, 23380 and 38382 of 2015 have come up with these Writ Petitions seeking to quash the proceedings in R.C.No.112908/2013/CBS1, dated 08.12.2014 issued by the 1st respondent and for a consequential direction to pay the withheld arrears of Selection Grade salary to the members of the petitioner Associations along with interest at the rate of 12% per annum from the date of the order dated 11.01.2013 passed by the Hon'ble Supreme Court in SLP(C) No.39075 of 2012, forthwith.

2. As the issue involved in all these Writ Petitions is one and the same, the cases are taken up together for disposal by a common order.

3. According to the petitioners, they formed an Association comprising staff, who are in service as well as retired persons of the second respondent Bank. That being so, on completion of 12 years of service, employees/members of the petitioner Associations claim that, they are entitled for Selection Grade salary as per G.O.Ms.No.144, Co-operation, Food and Consumer Protection Department, dated 06.07.2000 with retrospective effect from 01.07.1994 on par with the employees of Tiruchirapalli District Central Co-operative Bank vide G.O.Ms.No.70, dated 05.03.2004. As such, they are entitled for arrears of salary for the period from 01.07.1994 to 31.08.2001. Challenging the withholding notice issued under Section 9A by the Industrial Disputes Tribunal, the Management of the Respondent Bank filed Writ Petition in W.P.No.29973 of 2004 and thereafter, filed a Writ Appeal in W.A.No.1185 of 2010.

4. Aggrieved by the judgment passed in the Writ Appeal, the 2nd respondent/Bank preferred S.L.P.No.39075 of 2012. The

Hon'ble Apex Court dismissed the said SLP, however, modified the order passed in the Writ Appeal, by setting aside the interest portion alone. In spite of the directions issued by this Court as well as the Apex Court in favour of the petitioners, the respondents failed to implement the orders. Hence, the petitioners in W.P.No.27950 of 2013 filed a Writ Petition seeking a direction to the respondents and stating the pendency of the aforesaid writ petition, the 1st respondent issued proceedings in R.C.No.112908/2013/CBS1, dated 08.12.2014, rejecting the claim of the Petitioners. As the grievance of the Petitioners has not yet been considered by the Respondents, Petitioners have come up with the present Writ Petition challenging the impugned order and for an appropriate direction.

5. Learned counsel for the petitioners submitted that, as per G.O.No.144 and as per the directions of the Hon'ble Supreme Court vide its order in S.L.P.No.39075 of 2012, petitioners are entitled for arrears of Selection Grade payment. In spite of the orders passed by this Court and the same being confirmed by the Hon'ble Supreme Court, respondents have not paid the arrears from September 2001 and passing of the impugned proceedings dated 08.12.2014 by the 1st respondent is highly contemptuous in nature. He further submitted that, the arrears amount payable to the employees/members of the petitioner Associations were deposited by the respondents in their respective suspense accounts and the said amount was treated as working capital. He also submitted that, similarly placed persons of another Association viz. Tiruchirapalli District Central Co-operative Bank have availed the benefits extended by the Government. Hence, the learned counsel prays that it would suffice, if this Court issues a direction to the respondents to consider the claim of the Petitioners herein/petitioner Associations, within a stipulated period.

6. Per contra, Mr.M.S.Palanisamy, learned counsel appearing for the 2nd respondent/Bank submitted that, the 2nd respondent/Bank has been constituted in accordance with the provisions of the Tamil Nadu Co-operative Societies Act and as such, it is governed by by-laws. He went on to state that, for settlement of pay to the employees of the 2nd respondent/Bank, a Committee was constituted and accordingly, the 2nd respondent was classified under the category of 'B' class, whereas, the Tiruchirapalli District Central Co-operative Bank was classified under the category of 'A' class. Hence, the pay structure constituted in respect of employees of 'B' class would not be similar in respect of employees of 'A' class. He also submitted that, as per the directions of the Hon'ble Supreme Court, the 2nd respondent has disbursed the arrears amount to the tune of Rs.1,07,61,039/- to their employees, for the period from 01.07.1994 to 31.08.2001, in spite of financial constraints

faced by them. Accordingly, by taking into account the losses incurred by the 2nd respondent/Bank, he prayed for dismissal of these writ petitions.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Admittedly, the issue in question was already dealt with by the Hon'ble Supreme Court in S.L.P. No.39075 of 2012 to consider the claim of the employees of the petitioners/Association. Hence, without going into merits of the matter, this Court directs the 2nd respondent/Bank to implement the order passed by the Hon'ble Supreme Court in S.L.P.No.39075 of 2012 and pass appropriate orders, within a period of three weeks from the date of receipt of a copy of this order.

In fine, these Writ Petitions are disposed of with the aforesaid directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi2
To

1. The Registrar,
Tamil Nadu Co-operative Societies,
170, Periyar E.V.R. High Road,
Kilpauk, Chennai - 600 010.
2. The Joint Registrar / Managing Director,
Dharmapuri District Central Co-operative Bank Ltd.,
10H, Nethaji Bypass Road,
Dharmapuri - 636 701.

+lcc to Mr.G.Sankaran, Advocate Sr.39959

+lcc to the Special Government Pleader Sr.40066, 40067, 40086

W.P.Nos.27950 of 2013, 34659 of 2014,
23380 and 38382 of 2015

gj[co]
srg 19/01/2021