

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NOS.29722, 27286, 29832 TO 29834, 31956 & 33682 OF 2017
AND
W.M.P.NOS.32044, 35103, 35104 & 37274 OF 2017

R.RAJAKUMAR ... PETITIONER in WP.No.29722 of 2017
R.VARADHARAJAN ... PETITIONER in WP.No.27286 of 2017
R.RENUKA ... PETITIONER in WP No.29832 of 2017
A.PRAGALATHAN ... PETITIONER in WP No.29833 of 2017
M.THENNARASU ... PETITIONER in WP No.29834 of 2017
T.GOPU ... PETITIONER in WP No.31956 of 2017
V.CHANDRAMOHAN ... PETITIONER in WP No.33682 of 2017

Vs.

1. THE TAMIL NADU CIVIL SUPPLIES CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
CHENNAI - 10.
2. THE TAMIL NADU CIVIL SUPPLIES CORPORATION,
REPRESENTED BY ITS SENIOR REGIONAL MANAGER,
NAGAI REGION, NAGAPATTINAM-611 001.

... Respondents in W.P.No.29722 of 2017

- 1 TAMIL NADU CIVIL SUPPLIES CORPORATION
REP BY ITS FINANCIAL ADVISOR
CUM CHIEF ACCTS OFFICER
CHENNAI-10
- 2 THE TAMIL NADU CIVIL SUPPLIES CORPORATION
REP BY ITS MANAGING DIRECTOR
CHENNAI-10

3 THE TAMIL NADU CIVIL SUPPLIES CORPORATION
REP BY ITS SENIOR REGIONAL MANAGER
NAGAI REGION NAGAPATTINAM - 611 001

... RESPONDENT in WP No.27286 of 2017

1 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP.BY ITS MANAGING DIRECTOR
CHENNAI-10

2 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS SENIOR REGIONAL MANAGER
NAGAI REGION NAGAPATTINAM 611 001

... RESPONDENT in WP No.29832 of 2017

1 TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS FINANCIAL ADVISOR CUM
CHIEF ACCTS OFFICER
CHENNAI-10

2 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS MANAGING DIRECTOR. CHENNAI-10

3 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS SENIOR REGIONAL MANAGER
NAGAI REGION NAGAPATTINAM 611 001

... RESPONDENT in WP No.29833 of 2017

1 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS MANAGING DIRECTOR.
CHENNAI-10

2 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS SENIOR REGIONAL MANAGER
NAGAI REGION NAGAPATTINAM 611 001

... RESPONDENT in WP No.29834 of 2017

1 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP. BY ITS MANAGING DIRECTOR
CHENNAI-10

2 THE TAMILNADU CIVIL SUPPLIES CORPORATION
REP.BY ITS SENIOR REGIONAL MANAGER
NAGAI REGION NAGAPATTINAM 611 001

... RESPONDENT in WP No.31956 of 2017

1 THE TAMIL NADU CIVIL SUPPLIES CORPORATION
REP. BY ITS MANAGING DIRECTOR
CHENNAI - 10

2 THE TAMIL NADU CIVIL SUPPLIES CORPORATION
REP. BY ITS SENIOR REGIONAL MANAGER
NAGAI REGION NAGAPATTINAM - 611 001.

3 THE TAMIL NADU CIVIL SUPPLIES CORPORATION
REP. BY ITS SENIOR REGIONAL MANAGER
TANJAVUR REGION, TANJAVUR - 613 001.

... RESPONDENT in WP No.33682 of 2017

Prayer:-

W.P.No.29722 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from effecting recovery from pay the housing loan availed by the petitioner by proceedings ES/6400/2000, dated 03.02.2003 of the second respondent, at the revised rate of interest at 14.5% as such revision of interest by the respondents has been held illegal by this Court's order dated 22.07.2011 in W.P.No.3133 of 2005 etc., as upheld by the order dated 09.07.2012 of the Division Bench in W.A.No.251 of 2012 etc., and recover only at the rate fixed at the time of sanction of the loan vide Proceedings No.E5/6400/2000, dated 03.02.2003 of the second respondent.

WP No.27286 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd respondent to refund the amount of Rs.73896/- collected on 20.9.2016 from the petitioner being the revised rate of interest in respect of the house building advance received by the petitioner as such revision of interest by the respondents has been held illegal by this Courts order dated 22.7.2011 in W.P. No.3133 of 2005, batch as upheld by the order dated 9.7.2012 of the Division Bench in W.A.Nos.251 of 2012, batch.

WP No.29832 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to refund the excess amount of interest collected from the petitioner at the revised rate of interest in respect of the house building advance availed by her contrary to the sanctioned rate of interest vide proceedings RC E5/3171/ 2002 dated 31.3.2003 of the 2nd respondent as such revision of interest by the respondents has been held illegal by this courts order dated 22.7.2011 in W.P.No.3133 of 2005 batch as upheld by the order dated 9.7.2012 of the division Bench in W.A.Nos.251 of 2012 batch.

WP No.29833 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd respondent to refund the amount of Rs.1,36,175/- collected on 26.2.2009, from the petitioner being the revised rate of interest in respect of the house building advance received by the petitioner as such revision of interest by the respondents has been held illegal by this courts order dated 22.7.2011 in W.P.No.3133 of 2005 batch as upheld by the order dated 9.7.2012 of the division Bench in W.A.Nos.251 of 2012 batch.

WP No.29834 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to refund the excess amount of interest collected from the petitioner at 14.5% in respect of the house building advance availed by the petitioner, contrary to the sanctioned proceedings RC No.E5/15230/ 2000 dated 7.1.2003 of the 2nd respondent as such revision of interest by the respondents has been held illegal by this courts order dated 22.7.2011 in W.P.No.3133 of 2005 batch as upheld by the order dated 9.7.2012 of the division Bench in W.A.Nos.251 of 2012 batch.

WP No.31956 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, calling for the records relating to the proceedings Na.Ka. No.E3/ 5389/2012 dated 17.11.2017 of the 2nd respondent, quash the same as such revision of interest at 14.5% by the respondents has been held illegal by this courts order dated 22.7.2011 in W.P.No.3133 of

2005 etc., as upheld by the order dated 9.7.2012 of the Division Bench in W.A.Nos.251 of 2012 etc and consequently direct the respondents to recover only at the rate fixed at the time of sanction of the loan vide proceedings No.E5/ 15233/2000 dated 18.3.2002 of the 2nd respondent

WP No.33682 of 2017:-

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from effecting recovery from pay the housing loan availed by the petitioner by proceedings E5/217/99 dated 10.08.2001 of the 2nd respondent, at the revised rate of interest at 14.5% as such revision of interest by the respondents has been held illegal by this courts order dated 22.7.2011 in W.P.No.3133 of 2005 etc., as upheld by the order dated 9.7.2012 of the Division Bench in W.A.Nos.251 of 2012 etc., and recover only at the rate fixed at the time of sanction of the loan vide proceedings No.E5/217/99 dated 10.8.2001 of the 2nd respondent.

For Petitioner : Mr.S.Venkataraman
(in all WPs)

For Respondents: Mr.L.P.Shanmugasundaram
(in all WPs) Tamil Nadu Civil Supplies Corporation,

COMMON ORDER

Since the issues involved in all these writ petitions are one and the same, they are disposed of by this Common Order. For better appreciation, facts involved in W.P.No.29722 of 2017 are stated below:-

2. This writ petition has been filed by the petitioner seeking to forbear the respondents from effecting recovery from pay for the housing loan availed by the petitioner by proceedings ES/6400/2000, dated 03.02.2003 of the second respondent.

3. According to the petitioner, he was appointed as Assistant Operator in Modern Rice Mills, Erukkur, by the second respondent/Tamili Nadu Civil Supplies Corporation (TNCSC). He availed the loan of Rs.3,32,900/- for the construction of the house and as regards the rate of interest, they have fixed at the rate of 7.5% p.a. for the amount upto Rs.50,000/- and 9% p.a. for the amount from Rs.51,000/- to Rs.1,50,000/- and 11% p.a. for the amount from Rs.1,51,000/- and above was fixed.

4. As per the agreement, the petitioner has to repay the aforesaid amount in 156 monthly instalments to the second respondent. While that being so, the first respondent has passed the order dated 23.04.2004 by revising the rate of interest at the rate of 14.5% per annum at flat rate for the year 2001-2002 and 2002-2003 with retrospective effect.

5. According to the petitioner, the similar placed employees of the Corporation filed writ petitions in W.P.Nos.3133 of 2005 etc., for the revision of interest at the rate of 14.5% p.a. was fixed by the respondent/Corporation and this Court, by order dated 22.07.2011, allowed the writ petitions and set aside the revised rate of interest. Challenging the aforesaid writ petitions, the respondent has preferred an appeal in W.A.Nos.250 to 256 of 2012 and the same was dismissed by order dated 09.07.2012. Pursuant to the orders passed by this Court, the first respondent, vide proceedings dated 04.03.2015, ordered for refund of excess amount recovered from the similar placed employees. According to the petitioner, the aforesaid decision is squarely applicable to the facts of the present case.

6. In reply, the learned counsel appearing for the respondent/Corporation had also not disputed the above orders passed by this Court, in similar case.

7. Thus, by considering the aforesaid facts and circumstances of the case, it is no doubt true that the petitioner has availed the loan on 03.02.2013 from the respondent/Corporation.

8. However, as stated above, in the cases on hand, the petitioners were directed to pay interest at the rate of 14.5% per annum. Therefore, since the said rate of interest fixed by the respondent/Corporation had already been set aside by this Court in the aforesaid decision, in my considered view, the petitioners are entitled to claim such relief. Hence, by following the aforesaid decision of this Court, the impugned orders passed by the first respondent are set aside and the writ petitions are allowed in terms of the aforesaid order passed in W.P.No.3133 of 2005 etc., batches, dated 22.07.2011. It is needless to say that if any amount already recovered from the petitioners, the said excess amount shall be refunded.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

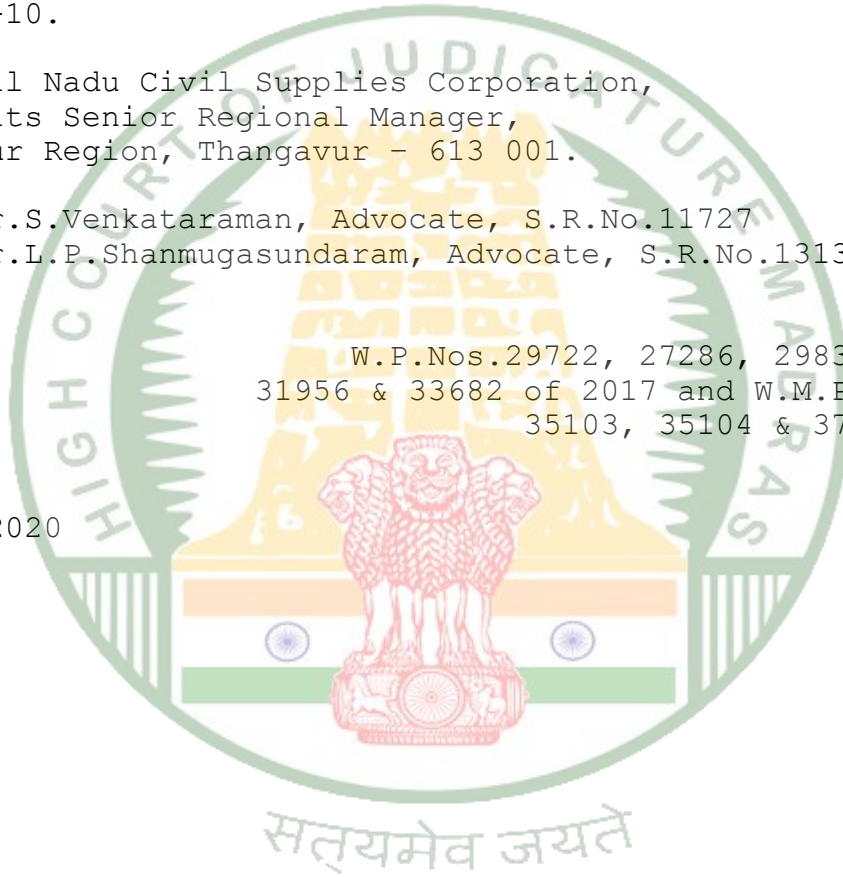
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To

- 1.The Tamil Nadu Civil Supplies Corporation,
Represented by its Managing Director,
Chennai - 10.
 - 2.The Tamil Nadu Civil Supplies Corporation,
Represented by its Senior Regional Manager,
Nagai Region, Nagapattinam-611 001.
 - 3.Tamil Nadu Civil Supplies Corporation,
Rep.by Financial Advisor cum Chief Accounts Officer,
Chennai-10.
 - 4.The Tamil Nadu Civil Supplies Corporation,
Rep.by its Senior Regional Manager,
Thanjavur Region, Thangavur - 613 001.
- +7cc to Mr.S.Venkataraman, Advocate, S.R.No.11727
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.13136

PM(CO)
CS/28/05/2020

W.P.Nos.29722, 27286, 29832 to 29834,
31956 & 33682 of 2017 and W.M.P.Nos.32044,
35103, 35104 & 37274 of 2017



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