



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2020

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THE HONOURABLE MR. JUSTICE R. SURESHKUMAR

W.P. (MD) Nos. 9520, 9524 and 9526 of 2020

WEB COPY

M. Indira ... Petitioner in W.P. (MD) No. 9520/2020

Jeyachitra ... Petitioner in W.P. (MD) No. 9524/2020

Ramasubramanian ... Petitioner in W.P. (MD) No. 9526/2020

Vs.

1. The Principal Secretary to Government,
Cooperative Food and Consumer,
Protection Department, Fort St. George,
Chennai-600 009.

2. The Registrar of Cooperative Societies,
NVN Natarajan Maligai,
Kilpauk, Chennai-10.

3. The President,
N.N.207, Kandavarayanpatti Primary
Agricultural Cooperative Credit Society,
Kandavarayanpatti,
Thirupathur,
Sivagangai District. ... Respondents in W.P. (MD) No. 9520/2020

1. The Principal Secretary to Government,
Cooperative Food and Consumer,
Protection Department,
Fort St. George, Chennai-600 009.

2. The Registrar of Cooperative Societies,
NVN Natarajan Maligai,
Kilpauk, Chennai-10.

3. The President,
N.N.594, Kirungakottai Primary Agricultural
Cooperative Credit Society,
Kirungakottai,
Sivagangai District. ... Respondents in W.P. (MD) No. 9524/2020

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Protection Department, Fort St. George,
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Kandavarayanpatti,
Thirupathur,
Sivagangai District.

4.The President,
N.N.594, Kirungakottai Primary Agricultural
Cooperative Credit Society,
Kirungakottai,
Sivagangai District.

..Respondents in W.P.(MD)No.9526/2020

COMMON PRAYER: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to extend the order passed by the Hon'ble Division Bench of this Court in W.A.No.452 of 2012 in which merging 97% DA is allowed with old pay scale, in spite of 84% DA allowed in the impugned G.O.Ms.No.189 issued by the first respondent and subsequent circular of the second respondent, dated 02.12.2009 based on petitioner's representation, dated 06.07.2020 and consequently, direct the respondent to fix the basic pay by merging 97% D.A. to the petitioner with effect from 01.04.2008 and arrear of pay with 12% interest.

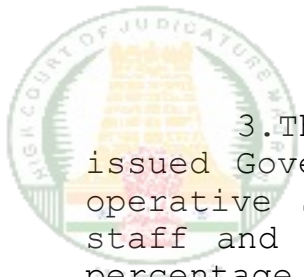
In all petitions

For Petitioners	: Mr.K.K.Samy
For Respondents	: Mr.A.Thiyagarajan
	Government Advocate

COMMON ORDER

Since the issue raised in all these writ petitions is one and the same, at the request of the learned counsel appearing for both sides, all these three writ petitions are taken up together and being disposed of at the admission stage itself through this common order.

2.The respective petitioners have been working in a Co-operative Primary Agricultural Credit Society, who are invariably third respondent in W.P(MD).Nos.9520 and 9524 of 2020, insofar as W.P(MD).No.9526 of 2020 is concerned, the Society is the fourth respondent, where the petitioner thereof has been working.



3.Their grievance is that, time and again the Government issued Government Orders with regard to fixation of salary for Co-operative Society's staff based on the pay fixation of Government staff and accordingly, every time such pay fixation is made. The percentage of Dearness Allowance hitherto received by them have to be merged with basic pay and accordingly, new pay to be fixed time and again clarified through various Government Orders.

4.In this case, it is the grievance of the petitioners that, every time such a payment is refixed by taking into account the Dearness Allowance received by them hitherto by merging the same with the basic pay, for fixation of new pay but, some lesser percentage of Dearness Allowance alone are taken into account for such merger comparing with the Government Servants. According to the petitioners, in 1997 when such refixation was made instead of 182%, only 170% Dearness Allowance was taken into account for merger, like that in 2008 instead of taking 97% Dearness Allowance, only 47% was taken, like that 2009 also instead of taking 97% Dearness Allowance, 84% was taken.

5.Therefore, in this regard, their grievance appears to be that, if the entire DA, for the staff working in Co-operative Societies, like the petitioners, are taken into account and the Dearness Allowance in full is got merged with the basic pay, their pay would get revised and accordingly, they would be entitled to get higher financial service benefits.

6.In this context, even though some orders have been passed by this Court in that line, where the learned counsel appearing for the petitioner relied upon W.A.No.452 of 2012 dated 20.07.2012 and several other orders, since nothing has been forthcoming from the respondents to fix the correct scale of pay by taking into account the full Dearness Allowance for merger with the basic pay, these petitioners have given separate representations on various dates to the respondents and last such representations were made by these people on 06.07.2020. The said representations since have not been considered by the respondents, these petitioners have approached this Court by filing these writ petitions with the aforesaid prayer.

7.The learned Government Advocate appearing for the respondents would submit that, the question whether these petitioners are entitled to get higher fixation of pay based on the plea that the higher Dearness Allowance has to be merged with the basic pay, can only be decided on its own merits, for which the representations given by each of the petitioners would be considered by the official respondents and accordingly, a decision would be taken on merits and in accordance with law within a time frame to be stipulated by this Court.



8. Having regard to the said submissions made on both sides and by taking into account the factual matrix of these cases, this Court is inclined to dispose of these writ petitions with the following directions:

'that the representations dated 06.07.2020 given by the respective petitioners in each of the writ petitions shall be considered and decided by the respondents, especially, the first and second respondents on merits and in accordance with law and accordingly, the said decision shall be communicated to the petitioners within a period of twelve weeks from the date of receipt of a copy of this order.'

9. With the above direction, these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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