



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM:

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P.[MD]No.16310 and 16317 of 2020

and

W.M.P.[MD]Nos.13626 and 13630 of 2020

W.P.[MD]No.16310 of 2020 :

1.S.Krishnasamy

2.S.Moorthy

3.V.Vivegamani

4.V.Pandurangan

5.V.Manoharan

6.K.Muthuchadayan

7.E.Logendran

8.S.Baskaran

9.K.Chinnayan

10.K.Sudhakaran

... Petitioners

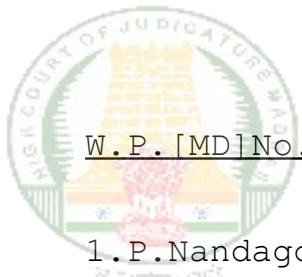
Vs.

1.The Principal Secretary of Government,  
Co operative 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,  
A.425 Kamayagoundanpatti Primary  
Agricultural Co-operative Credit Society Ltd,  
Kamayagoundanpatti (P.O.),  
Uthamapalayam Taluk,  
Theni District.

... Respondents



W.P. [MD]No.16317 of 2020 :

1.P.Nandagopal  
2.P.Subbusamy  
3.K.Senthilkumar  
4.P.Rajendran  
5.M.Ponnuchamy  
6.K.Pandiar  
7.M.Pandian

... Petitioners

Vs.

1.The Principal Secretary of Government,  
Co operative 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,  
A.1187 C.Pudupatti Primary Agricultural  
Co-operative Credit Society Ltd,  
C.Pudupatti - 625556,  
Theni District.

... Respondents

COMMON PRAYER : These Writ Petitions filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned G.O. Passed by the first respondent in G.O.Ms.No.189, Cooperative, Food and Consumer Protection (Cno.1) Department, dated 17.11.2009 and to quash the same in respect of fixation of Dearness allowance of 84% in so far as the petitioners are concerned and consequently direct the respondents to fix the pay scales along with DA 97% from 01.04.2008 and pay the same to the petitioner from 01.04.2008 with 75% interest.

For Petitioners  
(in both W.Ps.)

: Mr.V.O.S.Kalaiselvam

For R-1 and R-2  
(in both W.Ps.)

: Mr.R.Murugaraj  
Government Advocate

**COMMON ORDER**

These Writ Petitions have been filed to quash the impugned Government Order vide G.O.Ms.No.189, Cooperative, Food and Consumer Protection (CNo.1) Department, dated 17.11.2009 in respect of fixation of Dearness Allowance of 84% insofar as the petitioners are concerned and to direct the respondents to fix the pay scales along with DA 97% from 01.04.2008 and pay the same to the petitioners from 01.04.2008 with 7.5% interest.

2. Heard the learned Counsel for the petitioners and the learned Government Advocate appearing for the respondents 1 and 2.

3. The issue in the present Writ Petitions is whether the petitioners are entitled to Dearness Allowance at 97% of the basic pay. The issue is no more *res integra* and is squarely covered by a decision of Honourable Division Bench of this Court in W.A.(MD) No.452 of 2012. The said decision was taken note of by this Court on an earlier occasion in a batch of Writ Petitions in W.P.(MD) Nos.9140, 9186 and 14636 of 2014, dated 19.12.2018. After extracting the counter filed by the respondents in the said Writ Petitions, this Court has observed as follows:

"5. The petitioners are demanding existing Dearness Allowance of 97% be fixed to their last pay drawn salary and be given to them as the new basic pay. If the above formula is applied the petitioners are given only a marginal increase in the basic pay. Following illustrations based on the above formula will demonstrate the grievance of the petitioners are legitimate. If Rs.100/- was the basic pay and 97% DA was paid, till the issue of G.O.Ms.189, dated 17.11.2009, the pay + DA would be Rs.197 (100 + 97). If the formula as per G.O is applied New Basic Pay will be as follows:

$$\text{Basic Pay} + 50\% \text{ DA Merger} = X$$

$$\text{i.e., Rs.100 (BP) + 50\% of 97} = X$$

$$\text{Therefore, } X = 100 + 48.5 = 148.5$$

$$\begin{aligned} \text{New Basic Pay} &= X + (X \times 15\%) \\ &= 148.5 + (15\% \text{ of } 148.5) \\ &= 148.5 + 22.275 \\ &= 170.775. \end{aligned}$$



Thus, the petitioners loose out even if the revision is on 50% of existing Dearness Allowance. If 50% of 84% of the Dearness Allowance was applied the petitioners will further loose and there will be a further reduction in the Basic Pay.

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6. In view of the decision of the Division Bench Judgment of this Court and the above discussion these Writ Petitions are to be allowed. Consequently, the respondents are directed to calculate the arrears and pay the amount to the petitioners together with interest at 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order and also to pay the revised salary as per the orders of this Court."

4. In the light of above, these Writ Petition are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

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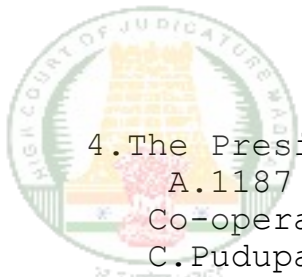
Sub Assistant Registrar(CS)

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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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Protection Department,  
Fort St. George, Chennai - 600 009.
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4.The President,  
A.1187 C.Pudupatti Primary Agricultural  
Co-operative Credit Society Ltd,  
C.Pudupatti - 625556,  
Theni District.

+1 CC to M/s.GP ( SR-22388[F] dated 20/11/2020 )

+2 CC to M/s.V.O.S.KALAI SELVAM, Advocate ( SR-22251[F],22252 dated  
20/11/2020 )

W.P.[MD]Nos.16310 and 16317 of 2020  
19.11.2020

SVN(CO)  
KK(07.12.2020) 5P 8C