



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]Nos.17299, 17328, 17331 and 17332 of 2020

W.P.[MD]No.17299 of 2020 :

K.Ramasamy	... Petitioner in W.P.[MD]No.17299 of 2020
M.Chellam	... Petitioner in W.P.[MD]No.17328 of 2020
P.Puthiyarasu	... Petitioner in W.P.[MD]No.17331 of 2020
V.Sethuraman	... Petitioner in W.P.[MD]No.17332 of 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,
NN597, Hanumanthakudi Primary
Agricultural Co-operative Credit Society,
Hanumanthakudi,
Sivagangai District.

... Respondents
(in all W.Ps)

COMMON PRAYER : These Writ Petitions filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, extending the order passed by the Hon'ble Division Bench of this High 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 common representation dated 07.09.2020 and consequently direct the respondent to fix the basic pay by merging 97% D.A to the petitioners w.e.f 01.04.2008 and arrear of pay with 12% interest.

For Petitioners
(in all W.Ps.)

: Mr.K.K.Samy



For Respondents
(in all W.Ps.)

: Mr.A.Thiyagarajan
Government Advocate

COMMON ORDER

WEB COPY

These Writ Petitions have been filed 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 common representation dated 07.09.2020 and consequently direct the respondents to fix the basic pay by merging 97% D.A to the petitioners w.e.f 01.04.2008 and arrear of pay with 12% interest.

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

3.The issue in the present Writ Petitions is whether the petitioners are entitled to for 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:

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

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

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



New Basic Pay = $X + (X \times 15\%)$

= $148.5 + (15\% \text{ of } 148.5)$

= $148.5 + 22.275$

= 170.775.

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.

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 Petitions are allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

cp

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:-

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

<https://hcservices.ecourts.gov.in/hcservices/>



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

3.The President,
NN597, Hanumanthakudi Primary
Agricultural Co-operative Credit Society,
Hanumanthakudi,
Sivagangai District.

+1 CC to Mr.K.K. SAMY, Advocate (SR-23615[F] dated 02/12/2020)

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01.12.2020

AC(CO)
KM (15.12.2020) 4P 5C