



W.P.No.9843 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.9843 of 2021

and

W.M.P.Nos.24931 and 24925 of 2022

- 1.A.Boopathy
- 2.G.Kandasamy
- 3.S.Dhanalakshmi
- 4.R.Manivelan
- 5.V.K.Sureshkumar
- 6.K.Krishnan
- 7.E.Mohammed Ghouse
- 8.Balasubramaniyan

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Cooperation, Food and Consumer Protection Department,
Fort St.George, Chennai - 600 009.

2.The Registrar of Cooperative Societies,
No.170, Periyar E.V.R.Road,
Kilpauk, Chennai - 600 010.

3.The Managing Director / Joint Registrar,
The Park Town Cooperative Wholesale Stores Limited,
Chennai - 600 102.

... Respondents



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PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in passing the order bearing reference Nc.No.182/2021-21/E6 dated 14.10.2020 on the file of the third respondent, quash the same and consequently direct the respondents to forthwith disburse the benefits payable to the petitioners on their retirement such as Leave Encashment, arrears of salary, arrears of enhanced salary on the basis of settlement arrived at under Section 12 (3) of the Industrial Disputes Act etc., with interest at the rate of 12% per annum from the dated on which the pecuniary benefits are due and payable to them till the date of payment.

For Petitioners : Mr.S.Mani

For Respondents : Mr.G.Ameedius
Government Advocate
for R1 and R2

Mr.L.P.Shanmugasundaram
Standing Counsel
for R3

ORDER

This Writ Petition has been filed by the petitioners without exercising the alternate Statutory Appellate remedy available under the Tamil Nadu Cooperative Societies Act.



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2. Admittedly, the Statutory Appellate remedy is available as against the impugned order, rejecting the petitioners' request for Dearness Allowance (D.A.) and Encashment of Leave.

3. A Counter has also been filed by the respondents denying the contentions of the petitioners and stating that the Writ Petition is not maintainable.

4. Since an alternate Statutory Appellate remedy is available to the petitioners if aggrieved by the impugned order, this Court is of the considered view that the petitioners will have to exercise the Statutory Appellate remedy.

5. As seen from the Affidavit filed in support of this Writ Petition, the petitioners have also not alleged that there is violation of Principles of Natural Justice. In such circumstances, the petitioners will have to necessarily redress their grievance only in the Statutory Appeal. Since the petitioners have approached this Court under Article 226 of the Constitution of India, without exercising the Statutory Appellate remedy, this Court is of



the considered view that the petitioners should not lose their right just because they have not filed the Statutory Appeal on time. Therefore, they must be permitted to file the same now.

6. No prejudice would also be caused to the respondents if a direction is issued to the respondents to pass final orders on the petitioners' Statutory Appeal on receipt of the same from the petitioners, within a time frame to be fixed by this Court.

7. For the foregoing reasons, this Court directs the petitioners to file a Statutory Appeal under the Tamil Nadu Cooperative Societies Act as against the impugned order dated 14.10.2020 passed by the third respondent before the Additional Registrar of Cooperative Societies, Chennai Region, within a period of one week from the date of receipt of a copy of this order. On receipt of the said Statutory Appeal, the Additional Registrar of Cooperative Societies, Chennai Region shall entertain the same and pass final orders on merits and in accordance with law, within a period of twelve weeks thereafter.



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8. Since the Additional Registrar of Cooperative Societies, Chennai Region is not a party respondent in this Writ Petition, this Court Suo-Motu impleads the Additional Registrar of Cooperative Societies, Chennai Region as the party fourth respondent in this Writ Petition.

9. Registry is directed to carry out the necessary amendment and only after carrying out the same, is directed to issue the order copy to the respective parties.

10. With the aforementioned directions, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

21.11.2022

Index : Yes/No
Speaking Order : Yes / No
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ABDUL QUDDHOSE. J.,

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(1/2)**