



W.P.(MD)No.2106 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.2106 of 2020
and
W.M.P.(MD)No.1758 of 2020**

1. Britto
2. A.Kaalailingam
3. S.Selvi

... Petitioners

Vs.

1. The Secretary to Government,
Co-operation Food and Consumer,
Protection Department,
Fort St.George,
Chennai - 600 009.
2. The Registrar of Co-operative Societies,
NV.Natarajan Maaligai,
No.170, E.V.R.High Road,
Kilpauk,
Chennai - 600 010.
3. The President,
RS 742, Kottaiyur Primary Agricultural Co-operative Society,
Kottaiyur Post,
Ilaiyankudi Taluk,
Sivagangai District.

... Respondents



W.P.(MD)No.2106 of 2020

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned Government Order in G.O.(MS). No.189, Co-operative Food and Consumer Protection Department dated 17.11.2009, passed by the first respondent and quash the same in respect of fixation of dearness allowance of 84% insofar as the petitioners are concerned and consequently, direct the respondents to fix the pay scales along with the dearness allowance of 97% from 01.04.2008 and pay the same to the petitioners from 01.04.2008 and even after the first respondent retires pending the Writ Petition pay the same as arrears after deducting whatever amount was paid already to the petitioners.

For Petitioners : Mr.R.Saravanan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

O R D E R

The petitioners have filed the present Writ Petition challenging the notification issued by the first respondent in G.O.(Ms).No.189, Co-operative and Food Production, dated 17.11.2009, and to quash the same in respect of fixation of Dearness Allowance of 84% insofar as the petitioners are concerned and consequently, direct the respondents to fix the pay scales along with Dearness Allowance 97% from 01.04.2008 and pay the same to the petitioners from 01.04.2008 as arrears after deducting whatever amount was paid already to the petitioners.



W.P.(MD)No.2106 of 2020

WEB COPY

2. The case of the petitioners is that the petitioners were working as employees of the third respondent Co-operative Society and prior to the impugned order, the pay scales of the petitioners were fixed along with Dearness Allowance at the rate of 97% as on 01.04.2008 and as such, the petitioners claimed that the said Dearness Allowance should not be reduced.

3. The learned counsel appearing for the petitioners would submit that the said G.O.(MS).No.189 was the subject matter of the Writ Petition in W.P(MD).No.9399 of 2011. By an order, dated 12.07.2011, this Court referred to a counter filed by the respondents 1 and 2 in W.P.No.4761 of 2010 and directed the respondents to maintain the fixation of the Dearness Allowance. It was stated that the respondents 1 and 2 in their counter in W.P.No.4761 of 2010 have stated as under:-

“15. Further it is not correct that there is reduction in salary, because of the above Government order. In fact, employees in all 4 categories have been given a hike of 10% / 5% as the case may be depending on the category after merging the Dearness Allowance with Basic Pay. It is given in the following lines:-



WEB COPY



W.P.(MD)No.2106 of 2020

For “A” & “B” classes – (Basic Pay as on 01.04.2008 + D.A as on 01.04.2008) + 10% of the above – New Basic Pay.

For “C” & “D” classes – (Basic Pay as on 04.01.08 + D.A as on 01.04.2008) + 5% of the above – New Basic Pay.

In fact total pay increase as on 01.04.2008 stands at 26% for A and B category, at 18% for C and D category. Therefore, the apprehension of the pertinent that there will be reduction of salaries of some of the members is imaginary, since the new basic pay arrived at on the above mentioned formula will have 5 to 10 increase of their present basic pay, plus additional pay because of merger of Dearness Allowance.”

4. The said order was confirmed by the Hon'ble Division Bench of this Court in W.A.No.452 of 2011. The petitioners pray that the present Writ Petition deserves to be allowed in the light of the order in W.P(MD).No.9399 of 2011 as confirmed in W.A.No.452 of 2012.

5. The learned Additional Government Pleader appearing for the respondents has no serious objection.



W.P.(MD)No.2106 of 2020

WEB COPY

6. Heard the learned counsel appearing for the parties and have perused the materials placed before this Court.

7. Considering the above submissions, this Court is of the considered view that it is suffice to direct the respondents herein to maintain the fixation of Dearness Allowance stated by the respondents 1 and 2 in the counter filed before this Court in the earlier Writ Petition in W.P.No.4761 of 2010 as incorporated above for 'A' and 'B' class employees as well as 'C' and 'D' employees.

8. With the above terms, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

06.12.2022

Index : Yes / No

Speaking Order : Yes / No

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W.P.(MD)No.2106 of 2020

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