



WEB COPY



W.P.No.4998 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM

**THE HONOURABLE Ms.JUSTICE R.N.MANJULA**

W.P. No.4998 of 2021

P.Jothi  
17, Church Compound  
Bhavani Main Road, B.P.Agraharam  
Erode 638 005

... Petitioner

/Vs/

1.The Chief Executive Officer  
Khadi & Village Industries Board  
Kuralagam Buildings, 5<sup>th</sup> Floor  
Chennai 600 108.

2.The Assistant Commissioner of Labour  
Erode.

3.The Assistant Director  
Khadi & Village Industries  
No.365, Kacheri Road  
Erode 630001

4.The President  
The Periya Agraharam Leather Tanners  
Co-operative Industrial Society Ltd.,  
Erode 638 005.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondents to pay the salary to the Petitioner as per time scale of pay from the date of regularization i.e., 21.05.2001.

For Petitioner : Mr.M.S.Swathish Kumar  
for M/s.Sarvabhauman Associates

For Respondents : Mr.T.Cheziyan (for R1 & R3)  
Additional Government Pleader

Mr.S.Umapathy (for R4)

### ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus directing the Respondents to pay the salary to the Petitioner as per time scale of pay from the date of regularization i.e., 21.05.2001.

2.Learned counsel for the Petitioner submitted that the Petitioner was appointed to the post of Sweeper under the fourth Respondent on 07.09.1996 as a daily wager. As per G.O.Ms.No.86, dated 12.03.2001, the



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Government had given powers to the Registrar, Co-operative Societies to regularise her appointment. Subsequently, the fourth Respondent has passed a resolution dated 21.03.2001 for regularising the Petitioner's appointment. Despite the fact that fourth Respondent had passed orders to regularise the Petitioner's employment, she was given with a consolidated pay of Rs.2,000/- per month; though the other employees, whose services have been regularised and they were give with the benefits of time scale pay, the Petitioner's representation did not yield any positive results.

3.Heard the learned counsel appearing on either sides and perused the available records.

4.The learned counsel for the first and the third Respondents filed a counter affidavit stating that the first Respondent has got no objection for fixing the time scale pay in accordance with rules; the fixation of pay to employee is a prerogative of the fourth Respondent, who is alone a employer; in the letter dated 14.05.2001 of the third Respondent sent to the fourth Respondent, it is stated that in pursuant to the Government Order in



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G.O.Ms.No.86 dated 12.03.2001, the fourth Respondent is permitted to fix the scale of its employee, subject to the financial capability of the society.

5.It is learnt that other employees viz., Ms.Rani Vaidhehi (Typist) and Mr.M.Madheswaran (Office Assistant) have been given with the benefit of getting time scale pay in pursuant to the society's resolution dated 21.03.2001 and the letter of the third Respondent dated 14.05.2001.

6.The learned counsel for the third Respondent attracted the attention of this Court to the letter dated 27.03.2012, written by the first Respondent to the third Respondent, wherein it is stated as under:

*“In case society wants to amend Special bylaws for increasing cadre strength and fixing time scale, it has to submit separate proposal under Section 149(1) of Tamil Nadu Co-Op. Rules for approval of Registrar & inform the action taken in this regard to the Board.”*

Such a dilatory process has not been initiated, but the time scale pay benefit was given to the other employee viz., Rani Vaidehi.



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7.It is worthwhile to mention that in the resolution dated 21.03.2001, the Petitioner's name has been included along with Rani Vaidhehi. No documents has been produced to show how the Respondents were pleased to give time scale pay benefit to the other employee Viz., Rani Vaidhehi, who has chosen to take different stand in respect of this Petitioner.

8.Since the resolution dated 21.03.2001 includes the name of the Petitioner along with Rani Vaidehi, the Respondents ought not to have got any objection for sanctioning the time scale pay in respect of the Petitioner also, irrespective of the fact whether there the cadre strength is available or not.

9.The Petitioner who is aged about 64 years is made to run from pillar to post, just to get the benefit of resolution dated 21.03.2001. Her case has not been considered, even though the fourth respondent had intended to place the subject matter in the society's subsequent general body meeting. But the fact remains that the resolution in respect of the Petitioner with regard to her time scale pay has already been passed and



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hence the matter need not require any further resolution of the fourth Petitioner/Society. Since similar benefit has been extended to other employee viz., Rani Vaidehi, I feel that the Petitioner's case should be treated on par with the other employee viz., Rani Vaidhehi. Hence, Respondents 1, 2 & 4 are directed to pay the arrears of pay to the Petitioner by granting and fixing time scale of pay from the date of her regularization i.e., 21.05.2001.

10. With the above direction, this Petition is allowed. No costs.

**04.10.2023**

Index : Yes/No  
Neutral citation : Yes/No  
Speaking Order/Non-Speaking Order

*sai*



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**R.N.MANJULA, J.**

*sai*

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