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W.A.Nos. 312 to 314 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

Coram

THE HON'BLE MR JUSTICE D. KRISHNAKUMAR
AND
THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.A.No. 312 to 314 of 2014
and M.P.Nos 1, 1 & 1 of 2014

W.A.No. 312 of 2014

The Special Officer,
The Vellore - Tiruvannamalai District,
Co-operative Milk Producers Union Ltd.,
Vellore - 632009.

..Appellant

Vs.

1.V.Kalidoss
2.V.Yadavan
3.P.K.Kuselan
4.G.Jayasankar

5.The State of Tamil Nadu,
Rep. By Secretary to Government,
Animal Husbandry & Fisheries Department,
Fort St.George, Chennai-600009.

6.The Commissioner,
The Tamil Nadu Co-operative Milk Producer's
Diary Development,
Madhavaram Milk Colony Post,
Chennai-600051.

..Respondents

W.A.No. 313 of 2014

The Special Officer,
The Vellore - Tiruvannamalai District,
Co-operative Milk Producers Union Ltd.,
Vellore - 632009.

..Appellant



W.A.Nos. 312 to 314 of 2014

Vs.

1.C.Panchatchararm
2.P.Pithaimuthu
3.R.Tamilselvam
4.P.Manoharan
5.V.Kumar
6.B.Arul

7.The State of Tamil Nadu,
Rep. By Secretary to Government,
Animal Husbandry & Fisheries Department,
Fort St.George, Chennai-600009.

8.The Commissioner,
The Tamil Nadu Co-operative Milk Producer's
Diary Development,
Madhavaram Milk Colony Post,
Chennai-600051.

..Respondents

W.A.No. 314 of 2014

The Special Officer,
The Vellore - Tiruvannamalai District,
Co-operative Milk Producers Union Ltd.,
Vellore - 632009.

..Appellant

Vs.

1.D.Venkatesan
2.S.Kandasamy

3.The State of Tamil Nadu,
Rep. By Secretary to Government,
Animal Husbandry & Fisheries Department,
Fort St.George, Chennai-600009.

4.The Commissioner,
The Tamil Nadu Co-operative Milk Producer's
Diary Development,
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Chennai-600051.

..Respondents



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Prayer in W.A.No. 312 of 2014 : This Appeal has been filed under Clause 15 of Letters Patent to set aside the order made in W.P.No.8531 of 2005 dated 16.04.2013.

Prayer in W.A.No. 313 of 2014 : This Appeal has been filed under Clause 15 of Letters Patent to set aside the order made in W.P.No.8812 of 2005 dated 16.04.2013.

Prayer in W.A.No. 314 of 2014 : This Appeal has been filed under Clause 15 of Letters Patent to set aside the order made in W.P.No.20021 of 2005 dated 16.04.2013.

For Appellant : Mr.P.S.Prabu
(in all three appeals)

For respondents : Mr.G.Jeremiah -
For R1 to R4 in WA.No.312 of 2014
For R1 to R6 in WA.No.313 of 2014
For R1 & R2 in W.A.No.314 of 2014

Mrs.S.Anitha, Spl.GP
For R7 & R8 in WA.No.312 of 2014
For R5 & R6 in WA.No.313 of 2014
For R3 & R4 in WA.No.314 of 2014

COMMON JUDGMENT

[Judgement of the Court was made by *D.KRISHNAKUMAR,J.*]

Challenging the order of the learned single judge in W.P.No.8531 of 2005 dated 16.04.2013, the appellant-Union has filed the instant writ appeals.



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2. Since the issue involved in all three writ appeals are same, they are clubbed together and taken up for final hearing and orders passed by way of common judgment.

3. The learned counsel appearing for the appellant would submit that the respondents /writ petitioners have engaged in the respondent-Society as casual labourers from the year 1995, admittedly, the aforesaid engagement of the writ petitioners was without prior written concurrence of the Commissioner. Totally, 112 persons were sought for regularisation of service from the respondent-department. The Government have decided to regularise the service of 47 technical persons vide G.O.Ms.No.75, dated 21.04.1998 and also decided to regularise the remaining 64 casual labourers who were mentioned in Annexure -II of the said G.O. The writ petitioners herein are amongst the aforesaid 64 casual labourers.

4. The learned counsel for the appellant would further submit that the Hon'ble Division Bench of this Court in the case of ***L.Justin Vs.Registrar of Co-operative Societies (2002) 4 SCC 385***, held that the appointment of the writ petitioners herein cannot be regularised as the same was in violation of the cadre strength. Subsequently, the Hon'ble Supreme Court in



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the case of ***A.Umarani Vs. Registrar of Co-operative Societies reported in (2004) 7 SCC 112*** confirmed the aforesaid decision of the Hon'ble

Division Bench of this Court. Therefore, based on the aforesaid orders, the 5th respondent and the appellant herein passed an order dated 20.12.2004 and 21.12.2004 respectively, regularising the services of the writ petitioners and accommodated in the then existing casual labourers post such as (i) Driver, (ii) Technicians, (iii) Technicians (Lab) and (iv) Executive (Typist) with effect from 12.03.2001 subject to the condition that their monetary benefits will take effect from the date of issue of the order. The said orders were under challenge before the learned Single Judge. The learned Single Judge has allowed the writ petitions accepting the date of regularisation as 12.03.2001 and partially quashed the G.O.(2D)No. 137, dated 28.09.2007, in respect of denial of monetary benefits from 12.03.2001. Challenging the same, the present appeal is filed by the appellant.

5. The learned counsel for the respondents/writ petitioners would submit that these writ petitioners were appointed by the Society and have been serving in the society for several years. Taking into consideration of their length of service, the Government has considered for regularisation of service with effect from the date of Government Order i.e. w.e.f



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12.03.2001. The learned Single Judge has accepted the date of regularisation of the writ petitioners as 12.03.2001 and directed the respondents/appellants to grant monetary benefits from the date of regularisation w.e.f 12.03.2001. According to the learned counsel for the respondents/writ petitioners, the order of the learned Single Judge is perfectly valid and does not require any interference by this Court.

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents and perused the materials available on record.

7. The primordial contention of the appellant is that the respondents/writ petitioners herein are not entitled for monetary benefit with effect from the date of Government Order i.e 12.03.2001 as directed by the learned Single Judge.

8. Undisputedly, the respondents/writ petitioners were appointed as casual labourers in the appellant society during the year 1994 and 1995 and the said posts have not been sanctioned by the appellant-society. Therefore, they are not entitled for regularisation of service as they have not satisfied the mandate prescribed statutory Rule 149 of the Tamil Nadu Co-Operative Societies Rules, 1988.



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9. Further, the Hon'ble Supreme Court in *A.Umarani's Case* cited supra clearly held that the appointment of the respondents/writ petitioners cannot be regularised since the same was in violation of the cadre strength, confirming the aforesaid order passed by the Hon'ble Division Bench of this Court.

10. Despite the ruling of the Hon'ble Supreme in the judgment cited supra that regularisation cannot be granted to employees working under non-sanctioned posts, the State Government has considered the appointments of the respondents/writ petitioners and by way of concession, has passed Government Orders in G.O.Ms.No. 86, Cooperation, Food and Consumer Protection Department, dated 12.03.2001, granting relief by regularising their posts with effect from the date of aforementioned G.O. Therefore, the order of the writ Court awarding monetary benefits from the date Government Order i.e, 12.03.2001, based on the respondents/writ petitioners' long-standing employment and acquisition of regularisation, is legally unsustainable. It is also brought to the notice of this Court that most of the employees appointed as casual labourers along with the writ petitioners have retired from service and only few of them are working in the appellant-society.



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11. Considering the facts and circumstances of the case and in view of decisions of the Hon'ble Supreme Court and the Division Bench of this Court, the impugned order of the learned Single Judge is set aside. Consequently, these writ appeals are allowed. No costs. Connected Miscellaneous Petitions are closed.

[D.K.K.J.]

[K.G.T.J.]

10.04.2023

Speaking/Non Speaking Judgment

Index: Yes/No

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**D. KRISHNAKUMAR, J.
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**Common Judgemnt in
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