



W.A.(MD) Nos.1317 to 1321 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2023

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THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) Nos.1317 to 1321 of 2021

and

C.M.P.(MD) Nos.5482, 5483, 5485, 5487 & 5489 of 2021

W.A.(MD) No.1317 of 2021

The President,
NN.628, Nattarasankottai Primary Agriculture
Cooperative Society,
Nattarasankottai,
Sivagangai District.

... Appellant

-Vs.-

1.R.Pandian
2.PL.Chidhamparam
3.L.Sankaralingam

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

4.The Registrar of Cooperative Societies,
NVN Natarajan Maligai,
Kilpauk, Chennai – 10.

... Respondents



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PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 01.12.2020 made in W.P.(MD)No.9938 of 2020 on the file of this Court.

For Appellant	: Mr.S.Kumar
For Respondents	: Mr.R.Saravanan for R1
	No Appearance for R2 & R3
	Mr.S.Kameswaran,
	Government Advocate
	for R4 & R5

COMMONN JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

Batch of Writ Appeals have been instituted by the Co-operative Societies registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983 against the orders of the learned Single Judge.

2.The Writ Petitions were instituted by the employees of the Co-operative Societies / private respondents questioning the validity of the Government Order passed in G.O.Ms.189, Co-operation, Food and Consumer Protection Department, dated 17.11.2009 and claiming fixation of Dearness Allowance at the rate 97% from 01.04.2008, against the Government Order, fixing 84% of dearness allowance.



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3.It is not in dispute that all the private respondents are the employees of the Co-operative Societies concerned registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. Each Co-operative Society is an independent entity registered separately holding registration number assigned by the competent authority under the Act. Each Society is following its special bylaws as approved by the competent authority under the Act governing the service conditions. Salary fixed by the Management of Society has to be approved by the competent authority under the Tamil Nadu Co-operative Societies Act, 1983.

4.Government in order to maintain uniformity in the matter of granting dearness allowance to the employees of the Co-operative Societies passed G.O.No.189, Cooperation, Food and Consumer Protection Department, dated 17.11.2009. The said Government Order was issued pursuant to the recommendation of the Pay Regulatory Commission constituted by the Government to rectify the discrepancies in the fixation of pay to the employees of the Co-operative Societies across the State of Tamil Nadu. Accepting the Commissioner's Report, the Government issued G.O.Ms.No.189, dated 17.11.2009.



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5.It is not in dispute between the parties that the said Government Order has been uniformly implemented by all the Co-operative Societies by granting 84% of dearness pay to the employees of the respective Co-operative Society concerned. All the employees had already received 84% of the dearness allowance. The learned counsel appearing on behalf of the appellants further made a submission that 12% of dearness allowance in addition had already been granted to the employees of the Co-operative Societies during the pendency of the litigations and therefore, the private respondents are not entitled to any further dearness allowance as claimed by them.

6.The employees of the Co-operative Societies cannot seek pay on par with the Government employees. Service conditions of the Co-operative Societies employees are governed under the provisions of the Tamil Nadu Co-operative Societies Act and Rules and the Special By-laws approved by the Registrar. That being so, the dearness allowance granted to maintain uniformity cannot be further extended by the Court by granting 97% of dearness allowance by relying on dearness allowance granted to the Government Employees. Such a comparison is impermissible.



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7.The Writ Petitions were filed challenging the Government Order granting dearness allowance, but the said dearness allowance had already been granted to all the employees, more so, additional dearness allowance of 12% was also sanctioned and disbursed in favour of the employees. That being the factum, if any grievance exists for the employees of the Co-operative Societies, they are at liberty to approach the Government for further relief in the manner known to law.

8.The power of Judicial Review cannot be expanded for the purpose of enhancing dearness allowance and therefore, this Court is of the opinion that the reliance placed on by the learned Single Judge in W.A.No.452 of 2012 dated 20.07.2012 is misplaced. In respect of the said order of the Division Bench, it was passed based on certain mistaken facts and the mistake committed by Government was admitted before this Court in another Writ Proceedings in W.P.(MD) Nos.19043 and 19049 of 2020. It was mistakenly placed before the earlier Division Bench that the Government granted 97% dearness allowance to the Co-operative Societies employees. Based on such mistake, the relief was granted in the said Writ Appeal and therefore, the said Writ Appeal cannot be followed



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as a precedent for the purpose of extending 97% dearness allowance to the employees of the Co-operative Societies.

9.Considering the facts and circumstances, we are of the considered opinion that the writ petitioners / private respondents are not entitled for the reliefs as such sought for in the Writ Proceedings. Thus, the order impugned in these Writ Appeals is set aside and the Writ Appeals are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S.J.,] & [V.L.N.J.,]

28.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To

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

2.The Registrar of Cooperative Societies,
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