



W.P.(MD)No.11164 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11164 of 2020

and

W.M.P.(MD) Nos.9752 & 9753 of 2020

N.Vairavan

... Petitioner

Vs.

1.The Circle Deputy Registrar
of Co-operative Societies,
O/o. Circle Deputy Registrar of Co-operative Societies,
Vaigaidam Road,
Periyakulam,
Theni District.

2.The 81 Enquiry Officer,
O/o.Circle Deputy Registrar of Co-operative Societies,
Vaigaidam Road,
Periyakulam,
Theni District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari, to call for the records of the



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impugned order passed by the first respondent, dated 25.02.2020 vide Na.Ka.462/2019/Sa.Pa and quash the same.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order passed by the first respondent, vide Na.Ka.462/2019/Sa.Pa, dated 25.02.2020.

2. The learned counsel appearing for the petitioner submitted that the petitioner was employed as Assistant Secretary in M.P.93 Mayiladumparai Primary Agricultural Co-operative Society, Mayiladumparai, which is a Co-operative Institution registered under the Tamil Nadu Co-operative Societies Act, 1983 and the Rules made thereunder. The said Society got its own by-laws with regard to the service



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conditions of the society and the Registrar of Co-operative Society is the ultimate authority. While so, the first respondent initiated recovery action as against all the employees of M.P.93 Mayiladumparai Primary Agricultural Co-operative Society as far as the payment of the Hill Station Allowance received by the staff concerned on the basis of the settlement arrived at under Section 12(3) of the Industrial Disputes Act, concluded between the Management of M.P.93 Mayiladumparai Primary Agricultural Co-operative Society, and the employees of the said society. However, the present impugned order is passed in terms of G.O.Ms.No.49, dated 24.03.2003 and the Mayiladumparai Primary Agricultural Co-operative Society, is declared as a plain area and not fall under the Hill area, thereby, through the impugned order, they ordered for recovery and stopped the Hill station Allowance. Challenging the same, the present writ petition is filed.

3.The learned counsel for the petitioner further submitted that earlier the Government of Tamil Nadu issued a G.O.Ms.No.44, Planning and Developing Department, dated 02.04.1990, including several Villages in Hill Taluks as Hill areas. Subsequently, the State Government in order to



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identify the actual Hill villages in the Hill area, exclusion of the villages in plain areas of Hill Taluk, they issued a G.O.Ms.No.49, dated 24.03.2003, in which they detailed and discussed with regard to the plain area and Hill area and include Mayiladumparai village as Hill village in annexure-I in the above said Government Order. However, without considering the said Government Order, the first respondent had mechanically passed the impugned order, as if the Mayiladumparai village is not a Hill area and it is a plain area and ordered for recovery, which is bad in law. Accordingly, he prayed for allowing the writ petition.

4. The learned Government Advocate appearing for the respondent-Society submitted that as per the instructions M.P.93 Mayiladumparai Primary Agriculture Co-operative Credit Society, wherein, the petitioner is working as an employee, entered into a settlement with the employees union Under Section 12(3) of Industrial Disputes Act, 1947, before the Labour Officer, Dindigul, on 04.03.2014. As per the provisions of the above settlement, the employees including the petitioner availed all the benefits with effect from 01.04.2013. As per 12(4) settlement clearly



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envisages that the Hill allowance is admissible to the employees of the Societies which are situated in Hill Areas as notified by the Government of Tamil Nadu. But the petitioner by citing a letter, dated 16.06.2014, received from the Public Information Officer, Revenue Department, Theni, claims that he is eligible for Hill Allowance as the Society in which he is working comes under Hill Areas. Since there was a ambiguous situation in identifying Hill Areas, the Planning and Development Department constituted a High Level Committee by name, Hill Area Conservation Authority. Based upon the committee report, the Government issued G.O.Ms.No.49, Housing and Urban Development (UD2-2) Department, dated 24.03.2003 with Annexure I and II enlisting and consolidated a list of Taluks and Villages which are actually lying in the Hill Areas within the State of Tamil nadu. Since the place of Society wherein the petitioner is working is not coming under Hill Areas, the Petitioner is not eligible to avail the benefits of Hill Allowances. Hence the impugned order passed by the first respondent is valid. Hence, he prayed for dismissal of the writ petition.



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5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner entered into the Service as Assistant in the M.P.93 Mayiladumparai Primary Agricultural Co-operative Society, Mayiladumparai and as per 12(3) settlement, the petitioner is entitled to avail all the benefits of Hill Station Allowances with effect from 01.04.2013 and even as per the counter-affidavit, they clearly stated that 12(4) settlement clearly envisages that the Hill allowance is admissible to the employees of the Societies which are situated in Hill Areas, as notified by the Government of Tamil Nadu and the respondent claims that as per G.O.Ms.No.49, Housing and Urban Development (UD2-2) Department, dated 24.03.2003, enlisting the consolidated list of Taluks and Villages, which are actually lying in the Hill Areas within the State of Tamil Nadu and the Mayiladumparai village is not a Hill Area and it is a plain are and they are not entitled to avail the said benefits.



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7. However, on a perusal of G.O.Ms.No.49, dated 24.03.2003, makes it clear that the earlier State Government had issued a Government Order in G.O.Ms.No.44, dated 02.04.1990 with Annexure-I including several villages under Hill Areas and thereafter, the State Government had decided to issue a fresh Government Order after identification of the actual Hill villages in the plain areas of Hill Taluks and after obtaining opinion from various authorities, the State Government in paragraph No.4, makes it clear and the State Government have carefully considered the proposal of the Special Commissioner of the Town and Country Planning and approved the list of villages sent by the District Collectors, which are actually located in the Hill areas of the Hill Taluks. The name of the Districts and the villages located in the Hill Taluks of the respective districts are given in Annexure-I of the above said Government Order.

8. Further, on a perusal of Annexure-I makes it clear in respect of Theni District, there are three taluks namely, Uthamapalayam, Bodinayackanur, Aundipatty. In Aundipatty Taluk, Mayladumparai, kadamalaikundi, Megamalai includes in Hill villages and in view of the



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above Government Order, however, without considering the Annexure-I of the above said Government Order, the respondent have mechanically passed the order of recovery, is not sustainable one. Hence, the impugned order passed by the respondents is liable to be interfered with and the same is to be set aside.

9. Accordingly, this writ petition is allowed and the impugned order is set aside. The respondents are directed to extend the Hill Station Allowance to the petitioner as per 12(4) settlement and any amount recovered in view of the impugned order be refunded to the petitioner and extend all the benefits of Hill Station Allowance to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

31.01.2023

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

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M.DHANDAPANI,J.

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