



W.P.(MD)No.13810 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13810 of 2020

and

W.M.P.(MD)No.11461 of 2020

Kanyakumari District Central Cooperative,
Bank Employees Union,
Reg.No.566/K.K.M
Rep. by its General Secretary
Parvanaillam,
11/6-5 Kanthari Amman Coil St.,
Kattabomman Junction,
Nagercoil - 629 001
Kanyakumari District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. by its Secretary,
Department of Co-operation,
Food and Consumer Protection,
Fort St. George Chennai-009
- 2.The Registrar of Cooperative Societies,
170 Periyar EVR Highways,
Chennai - 600 010.



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3.The Managing Director/ Additional Registrar,
The Tamil Nadu State Apex Co-Operative Bank Ltd.,
233, NSC Bose Road,
Chennai - 600 001.

4.The Managing Director
Kanyakumari District Central Cooperative Bank Ltd.,
Alexandra Press Road,
Nagercoil- 600 001,
Kanyakumari 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 relating to
the impugned Order passed by the second respondent in
Na.Ka.No.19067/2020Sa.Pa.1, dated 15.5.2020 in so far as the Condition
Nos.2 and 3 are concerned, quash the same.

For Petitioner : Ms.A.Velan Kanniammal
for M/s.Issac Chambers

For Respondents : Mr.N.Ramesh Arumugam, - for R1 to R3
Government Advocate
Mr.Shanmugaraja Sethupathy - for R4



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ORDER

This writ petition has been filed to quash the impugned Order passed by the second respondent in Na.Ka.No.19067/2020Sa.Pa.1, dated 15.5.2020 in so far as the Condition Nos.2 and 3 are concerned.

2. The learned counsel appearing for the petitioner submitted that the petitioner Union namely, Kanyakumari District Central Co-operative Bank Employees Union, Nagercoil, is registered under the Trade Unions Act, 1926. The employees of the other Co-operative Societies, the employees of the Co-operative Banks enjoy the special status as that of the other Nationalised Bank Employees. The eligibility of Earned Leave Surrender is fixed to the employees of the fourth respondent as per the settlement made under Section 12(3) of the Industrial Disputes Act, 1947. The last settlement under Section 12(3) of the Act, was made for a period of five years on 14.12.2018 which will be in force for a period of five years from 01.01.2016. On 01.01.2020, financial crisis was faced by the Central Government due to Covid-19 pandemic and it has decided to withheld the



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additional instalment of Dearness Allowance payable to the Central Government Employees and Dearness Allowance Relief to the Central Government Pensioners for a period of one year from 01.01.2020 to 01.01.2021. The State Government also adopted the same in respect of employees of State Government vide G.O.Ms.No.232, Finance (Allowance) Department, dated 27.04.2020 freezing the Dearness Allowance of State Government Employees, teachers and Pensioners / Family Pensioners till July, 2021 and the same was adopted by the Co-operative Department through internal communication, dated 15.05.2020. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that the present impugned order was passed on 15.05.2020 and in view of the Covid-19 restrictions, since both the Government suffers financial crisis, thereby, the present impugned order is passed. However, after a lapse of two years and everything normalised, this writ petition become infructuous. However, this Court may issue direction to the respondents to pay the dearness allowance to the members of the petitioner's Union.



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4. The learned Standing counsel appearing for the fourth respondent submitted that though the present impugned order is passed on 15.05.2020 during Covid-19 period, however, subsequently, everything normalised the periodical eligible dearness allowance will disburse by the Co-operative Society to their employees.

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's Union aggrieved by the impugned order, which restrained the Co-operative Additional Registrar to disburse the dearness allowance encashment of earned leave to the employees on the ground there was a financial constrain due to Covid-19 pandemic, based on G.O.Ms.No.232, dated 27.04.2020.

7. This Court perused the Government Order as well as the impugned orders. On a perusal of the impugned order and the Government



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Order reveals that in order to tide over the financial constraints the impugned order was passed.

8. In view of the expenditure made by the State Government to the State Government employees and the Co-operative Department to the Co-operative employees tide over the financial crisis due to Covid-19 pandemic, they temporarily freezing the dearness allowance to the State Government employees as well as to the Government Pensioners, Family Pensioners at the current rate till July 2021 and the State Government has decided to adopt the decision of the Government of India for State Government employees, teachers, pensioners, Family Pensioners and for freezing the dearness allowance at the current rate, till July 2021. The additional instalment of dearness allowance payable to the State Government employees, teachers, Pensioners, from 1st January 2020 shall not be paid. The additional instalments of the dearness allowance due from first July 2020 to 1st January 2021 shall also not be paid. However, the dearness allowance at current rates will continue to be paid. As and when the decision to release the future instalment of dearness allowance due from



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1st July 2021 is taken by the Government, the rate of Dearness allowance as effective from 1st January 2020, 1st July 2020 and 1st January 2021 will be restored prospectively and will be subsumed in the cumulative revised rate effective from 1st July 2021. No arrears for the period from 1st January 2020 till 30th June 2021 shall be paid.

9. The said order also applied to the teaching and non-teaching staffs working in aided educational institutions, employees under Local Bodies, employees governed by the University Grants Commission and the said Government Order was also followed by the Registrar of Co-operative Society and the Registrar of Co-operative Society communicated to all the Co-operative Sub Registrars, for disbursement of the dearness allowance and earned leave till July 2021. However, the above said Government Order is passed during the Covid-19 pandemic period and restrictions of Covid-19 pandemic was lifted subsequently and as on date, there is no legal impediment to disburse the eligible dearness allowance and encashment of leave to the petitioner.



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10. With the above observations, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

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

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M.DHANDAPANI,J.

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