



W.A.(MD) No.131 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM:

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

**W.A.(MD) No.131 of 2022
and
C.M.P.(MD) No.1283 of 2022**

The President
DD568 V.Ammapatti Primary
Agricultural Cooperative Credit Society
Achanampatti (P.O)
Vedasandur (T.K)
Dindigul District-624 702

... Appellant

-vs-

- 1.R.Shanmugavelu
- 2.The Principal Secretary of Government
Cooperative Food & Consumer
Protection Department
Fort St.George, Chennai-600 009
- 3.The Registrar of Cooperative Societies
NVN Natarajan Maligai
Kilpauk, Chennai-10

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 24.11.2020, passed in W.P.(MD) No.16671 of 2020, on the file of this Court.

For Appellant : Mr.D.Senthil

For Respondents : Mr.D.Shanmugaraja Sethupathi for R1
Mr.S.Kameswaran
Government Advocate for R2 & R3

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

This writ appeal is directed by the Cooperative Society against the order of the learned Single Judge, dated 24.11.2020, passed in W.P.(MD) No. 16671 of 2020.

2. The Writ Petition was instituted by the employee of the appellant - Society / first respondent 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 the first respondent is the employee of the appellant – Society, which is registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The appellant – Society is an independent entity holding a registration number assigned by the competent authority under the Act. The appellant – 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. The 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 Cooperative 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 The appellant – Society 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 first respondent is not entitled to any further dearness allowance as claimed by him.

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 Petition was 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 first respondent / employee of the appellant – Society, he is at liberty to approach the Government for further relief in the manner known to law. The power of Judicial Review cannot be expanded for the purpose of enhancing dearness allowance.

8. Considering the facts and circumstances, we are of the considered opinion that the Writ Petitioner / first respondent is not entitled for the reliefs as such sought for in the Writ Proceedings. Thus, the order impugned in this Writ Appeal is set aside and the Writ Appeal is allowed. Consequently, connected Miscellaneous Petition is closed.

[S.M.S., J.]

[V.L.N., J.]

14.12.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Principal Secretary of Government,
Cooperative Food & Consumer
Protection Department,
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