



W.P.(MD) Nos.1954 and 4091 of 2017
and 798 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) Nos.1954 and 4091 of 2017
and 798 of 2020 and

WMP(MD) Nos.574/2020, 576/2020,4672/2021, 3247 and 3248/2017, 1615 &
1616/2017

WP(MD) No.1954/2017

1.K.Bose

2.J.Kannan

3.U.Raja

4.R.Kannan

5.R.Vijaya

6.K.Subramanian

7.P.Nagarajan

8.K.Sekar

... Petitioners

-VS-

1.The State of Tamil Nadu
Represented by the Chief Secretary
Secretariat, Fort St. George, Chennai 600 009.



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2.The State of Tamil Nadu
Represented by the Secretary
Housing and Urban Development Department
Fort St. George,
Chennai 600 009.

3.The Registrar (Housing)
Tamil Nadu Cooperative Housing society
Tamil Nadu Housing Board Campus
No.493 Anna Salai, Nandanam

4.The Deputy Registrar (Housing)
Housing Society
Virudhunagar Region,
No.3 DD Road, Mani Nagaram
Virudhunagar
Virudhunagar District

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.7451/2016/Sa.Pa1 dated 21.12.2016 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondents to provide the arrears of salary including the alternate job in any other Government Departments in the case of closure of the cooperative societies within the time stipulated by this Court.

For Petitioner :Mr.T.Aswin Rajasimman

For Respondents :Mr.Veera Kathiravan

Additional Advocate General

assisted by A.Baskar

Additional Government Pleader



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WP(MD) No.4091/2017

1.P.Elangovan

2.S.Ilanseran

3.A.Pandi

4.B.Vimala

5.T.Sivasubramanian

6.R.Srinivasan

7.P.Mohan

... Petitioners

-VS-

1.The State of Tamil Nadu
Represented by the Chief Secretary
Secretariat, Fort St. George,
Chennai 600 009.

2.The State of Tamil Nadu
Represented by the Secretary
Housing and Urban Development Department
Fort St. George,
Chennai 600 009.

3.The Registrar (Housing)
Tamil Nadu Cooperative Housing society
Tamil Nadu Housing Board Campus
No.493 Anna Salai, Nandanam



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4.The Deputy Registrar (Housing)
Housing Society
Virudhunagar Region,
No.3 DD Road, Mani Nagaram
Virudhunagar
Virudhunagar District

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.7451/2016/Sa.Pa1 dated 23.01.2017 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondents to provide the arrears of salary including the alternate job in any other Government Departments in the case of closure of the cooperative societies within the time stipulated by this Court.

For Petitioner :Mr.T.Aswin Rajasimman
For Respondents :Mr.Veera Kathiravan
Additional Advocate General
assisted by A.Baskar
Additional Government Pleader

WP(MD) No.798/2020

1.K.Bose

2.R.Rajendran

3.P.Elangovan

4.A.Kathiresan

... Petitioners

-VS-



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1. The State of Tamil Nadu
Represented by the Chief Secretary
Housing and Urban Development Department
Fort St. George,
Chennai 600 009.
2. The State of Tamil Nadu
Represented by the Secretary
Cooperation, Food and Consumer Department
Fort St. George,
Chennai 600 009.
3. The Registrar (Housing)
Tamil Nadu Cooperative Housing society
Tamil Nadu Cooperative Housing Federation Campus
No.48 Ritherdon Road
Vepperi, Chennai 600 007.
4. The Chairman
State Recruitment Bureau
NV Natarajan Maaligai First Floor
170 Periyar EVR High Road
Kilpauk
Chennai 600 010.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Advertisement No.01-2019 dated 23.10.2019 on the file of the respondent No.4 and quash the same as illegal and consequently direct the respondents to absorb the petitioners in the vacant posts of Assistant and Junior Assistant in the Tamil Nadu Apex Cooperative Banks/Societies



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within the time stipulated by this Court.

For Petitioner :Mr.S.Louis
For Respondents :Mr.Veera Kathiravan
Additional Advocate General
assisted by A.Baskar
Additional Government Pleader

COMMON ORDER

These writ petitions were filed challenging the impugned orders of the Registrar of the Tamil Nadu Housing Cooperative Societies, dated 21.12.2016, 23.01.2017 and 23.10.2019 and for a consequential direction to provide alternative employment to the petitioners and to absorb them in the vacant posts of Assistant and Junior Assistant in the Tamil Nadu Apex Cooperative Banks/Societies within the time stipulated by this Court.

2. The petitioners are employees of the respondent Society in various capacities and the said housing building society was formed by the State with a noble purpose of providing houses to the homeless citizens of the country. Around 12 lakhs houses have come into existence through the societies and there are 816 cooperative societies in the entire State of Tamil Nadu.



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3. The petitioners herein were recruited through the District Employment Exchange in the sanctioned vacancy on permanent basis by following the rule of reservation. Due to intervention of the politicians into the functioning of these societies, it caused great hindrance, where the election manifesto assures waiver of loans and dues. However, while granting waiver to the people, who have taken loan from these societies, the economical position of the societies was shattered and shaken and ultimately it has reached a stage where the employees of the societies could not be paid the monthly salaries as per the pay scales. Therefore, they approached the respondents to provide the monthly salaries and arrears and the same is pending. Hence, the petitioners filed W.P.No.21801 of 2016 to consider their representations. This Court, vide order dated 15.11.2016 directed the respondents to consider the representation of the petitioners, pursuant to which, the impugned order came to be passed, thereby rejecting the request of the petitioners for salaries and alternate employment in other Government Department.



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4. The learned counsel for the petitioners would submit that though each and every district is an individual unit and based on the income generated from the housing society, the salary has to be paid to the respective employee of the society and due to the election conducted by the housing society, the society become defunct and they are not able to pay the salaries of the petitioners thereby the petitioners approached the higher authority. However, neither paying the salary nor providing alternate employment is per se illegal. It is his further submission that though the State Government has issued G.O.Ms.No.18 dated 05.02.2018 thereby permitting absorption of the similarly placed persons under Rule 149(2) (ii) of the Tamil Nadu Cooperative Societies Rules, the case of the petitioners have not been considered so far. He would further contend that when redeployment orders were issued to 110 society workers among housing cooperative societies and 95 staff were absorbed into fair price shops, the petitioners have to be considered on par with those employees. For all these reasons, the learned counsel prayed for appropriate direction.



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5. The learned Additional Advocate General appearing for the respondents would submit that admittedly the petitioners were the employees of the respective society, which are separate units and they have been governed by the bye-laws and business rules and the income generated out of the same, salaries to be paid to the employees. However, some of the petitioners have committed several irregularities and several loans were granted to ineligible persons, which is also one of the reason for loss caused to the society. It is his further contention that due to the petitioners' act only, the societies have become defunct. He would further add that the Government never contributed any fund to the Housing Cooperative Societies either for salary and the Government has taken a policy decision to waive only in respect of agricultural loans and the petitioners, who are the employees of the cooperative societies, are only involving in housing business. Accordingly, he prayed for dismissal of the writ petition.

6. Heard the learned counsel for the petitioners and the learned Additional Advocate General appearing for the respondents.



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7. The fact that the petitioners were working in the cooperative societies in various capacities is not in dispute. Equally, it is not in dispute that since the societies have become defunct, the salaries of the petitioners could not be paid. As regards the contention of the petitioners that they have to be considered for alternate employment under Section 149(2) (ii) of the said Rules is concerned, there is no specific provision in the Tamil Nadu Cooperative Societies Act, 1983 or in the Rules for absorption of surplus employees of other cooperative societies. The Government had issued orders in G.O.Ms.No. 18 dated 05.02.2016 for absorption of surplus employees of primary cooperative housing societies, which were not viable by other primary cooperative housing societies working on profit basis, subject to certain conditions. However, the said order is not applicable to the cooperative societies under the control of the Registrar of Cooperative Societies. Rule 149 prescribes cadre strength and classification of various categories of posts and the qualifications required thereof for each posts and the method of recruitment for each such posts. It is pertinent to note that the mode of recruitment are specified in the special by laws covering the service conditions of employees



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of cooperative societies under the control of Registrar of Cooperative Societies, ie., by direct recruitment, by promotion and by deputation. The special by-laws of the societies including the apex societies under the control of the Registrar of cooperative Societies do not provide for absorption of employees of other cooperative societies. When that being so, the absorption of the petitioners of other cooperative societies under the control of the Registrar of Cooperative societies is in violation of the Rules.

8. G.O.Ms.No.187 dated 27.11.2017, was issued for the absorption of surplus employees of cooperative housing societies in the vacancies existed in the post of salesman and packers in the fair price shop run by the cooperative societies subject to certain conditions specified therein. It is seen that this G.O., was issued to amend the by-laws with regard to relaxation of educational and age qualifications as one time measure in public interest. It is also seen that the said G.O. has already been implemented and was not still in force. Therefore, the petitioners cannot take shelter under the said G.O. If the petitioners possess required educational and other qualifications, they can compete with other candidates in the recruitment process to the post of



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Assistants and Junior Assistants for the impugned advertisement dated
23.10.2019.

9. In the present cases, as per the submission made by the learned Additional Advocate General, the petitioners were responsible for the defunct of the societies and therefore, the prayer that has been sought for cannot be granted. Accordingly, the Writ Petitions fail and the same are dismissed. However, if the petitioners are eligible for the salaries for the period in question and if the societies income is sufficient to pay the salary of the petitioners, they can work out their remedy before the special officer of the concerned society. No costs. consequently connected Miscellaneous Petitions are closed.

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NCC : Yes/No

Index : Yes/No

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To

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Secretariat, Fort St. George, Chennai 600 009.
- 2.The Secretary
Housing and Urban Development Department
Fort St. George,
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- 3.The Registrar (Housing)
Tamil Nadu Cooperative Housing society
Tamil Nadu Housing Board Campus
No.493 Anna Salai, Nandanam
- 4.The Deputy Registrar (Housing)
Housing Society
Virudhunagar Region,
No.3 DD Road, Mani Nagaram
Virudhunagar, Virudhunagar District
- 5.The Chairman
State Recruitment Bureau
NV Natarajan Maaligai First Floor
170 Periyar EVR High Road
Kilpauk
Chennai 600 010.



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M.DHANDAPANI, J.

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