



WEB COPY



W.P.No.1221 of 2022 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.03.2024

PRONOUNCED ON : 15.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.1221, 1224, 1225, 1227 & 1228 of 2022
and W.M.P.Nos.1302, 1308, 1311, 1312 & 1313 of 2022

K.Sureshkumar	...Petitioner in W.P. No.1221 of 2022
V.Vasudevan	...Petitioner in W.P. No.1224 of 2022
R.Dhanalakshmi	...Petitioner in W.P. No.1225 of 2022
G.Senthilvelan	...Petitioner in W.P. No.1227 of 2022
L.Baranidharan	...Petitioner in W.P. No.1228 of 2022

-Vs-

1. The Deputy Registrar of
Co-operative Societies (Housing)
East Garden Street,
Salem Region,
Salem – 636 016.



W.P.No.1221 of 2022 etc.

2. S.1523 Dr. Ambedkar Salem City
Co-operative House Building Society Ltd.,
Rep. by its President,
No.9, Paulpillai Street,
Kottai, Salem – 636 001.

... Respondents in
all W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the order passed by the first respondent in Na.Ka.2530/2018/AU dated 07.01.2022 quash the same and direct the first respondent to fix the pay scale to the petitioner accordance with the circular issued by the Registrar of Co-operative Societies (H) Chennai, Rc.No.5465/1991/C4 dated 15.05.1991 and Rc.No.4304/2003/SF2 dated 15.06.2009.

In all W.Ps.

For Petitioners : Mr.M.S.Palaniswamy

For Respondents : Mr.P.Sathish
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the order dated 07.01.2022 and to direct the first respondent to fix the pay scale to the petitioners in accordance with the circular issued by the Registrar of Co-operative Societies(H) Chennai, dated 15.05.1991 and 15.06.2009.



W.P.No.1221 of 2022 etc.

2. The issues involved in all the writ petitions are common in nature and as such this Court is inclined to pass a common order.

3. The petitioners were appointed in the second respondent society in various posts in the year 1998-99. Subsequently, they were promoted to their respective promotional posts. Their salaries were fixed under the settlement under Section 18(1) of the Industrial Disputes Act. However, they were not regularized and as such the Registrar of Cooperative Societies(H), Chennai, had sent a communication dated 16.10.2015, to the Director of Co-operative, Chennai, not to raise objection for the release of the amount retained earlier and not to object the payment of benefits of the non-regularized employees in future.

4. In order to rectify the disparity between the regularized employee and non-regularized employees, the second respondent society passed resolution to regularize the employees of the society and fixed the pay scale. The resolution was forwarded to the first respondent and the same was forwarded to the Registrar of Cooperative Societies (H), Chennai. However, no order has been passed as such the petitioners had filed writ petitions in W.P.Nos.839, 840, 842 to 844 of 2020 and this



W.P.No.1221 of 2022 etc.

Court by an order dated 20.01.2020, directed the Registrar of Cooperative Societies (H), Chennai, to consider the representations and pass orders.

5. In pursuant to the order passed by this Court, the Registrar of Cooperative Societies (H), Chennai, has passed order dated 12.11.2020 and accordingly, all the petitioners are eligible for terminal benefits, if they continue to work in the society till their retirement in the following posts and also issued other directions :-

- (i) K. Sureshkumar - Secretary
- (ii) V. Vasudevan - Clerk
- (iii) R.Dhanalakshmi - Clerk
- (iv) G.Senthilvelavan - Junior Clerk
- (v) L.Baranidharan - Office Assistant

Accordingly, the second respondent passed resolution and forwarded to the first respondent to approve the pay scale and other allowances to the petitioners. However, no order has been passed to approve the proposal sent by the second respondent.

6. Once again, the petitioners approached this Court in



W.P.No.1221 of 2022 etc.

W.P.No.19196 of 2021 and this Court by an order dated 13.09.2021, directed the first respondent to take steps to implement the decision in terms of the proposal submitted by the second respondent within a period of twelve weeks. On receipt of the same, the first respondent by an order dated 07.01.2022, fixed pay scale contrary to the order passed by the Registrar of Cooperative Societies(H), Chennai. Hence, the petitioners filed these writ petitions with the above said prayer.

7. The learned counsel appearing for the petitioner in all writ petitions submitted that the first respondent did not pass order in consonance with the circular issued by the Registrar of Cooperative Societies (H), Chennai. When the first respondent classified the second respondent society as A Class, the first respondent ought to have fixed the salary in accordance with the terms of the order of the Registrar of Cooperative Societies (H), Chennai. However, without assigning any reasons, the first respondent reduced the pay scale of the petitioners.

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

9. On perusal of the counter filed by the first respondent and the submission made by the learned Additional Government Pleader



W.P.No.1221 of 2022 etc.

revealed that the petitioners were appointed without calling for a list of eligible candidates from the employment exchange as contemplated under Rule 149(2) of the Tamil Nadu Cooperative Societies Rules, 1988. Therefore, their appointment itself was deemed to be irregular. The second respondent societies was classified as “E” category society as per the special byelaws relating to the service conditions of the second respondent society framed as per the directions of the Registrar of Cooperative Societies (Housing), Chennai, issued under Section 181 of the Tamil Nadu Cooperative Societies Act, by its proceedings dated 15.05.1991. Accordingly, the second respondent society fell under “E” category and it was fixed as one Secretary and one Office Assistant posts.

10. Even according to the petitioners, initially they were appointed in different posts viz., the petitioner in W.P.No.1221 of 2022 was appointed as Accountant, the petitioners in W.P.Nos.1224 & 1225 of 2022 were appointed as Clerk, the petitioner in W.P.No.1227 of 2022 was appointed as Junior Clerk and the petitioner in W.P.No.1228 of 2022 was appointed as Record Clerk. As stated supra in the E category society, there was no room for the posts of Accountant, Clerk, Junior Clerk & Record Clerk etc., in the approved cadre strength of the society in which, the petitioners were initially appointed. Since there was no such posts, the



W.P.No.1221 of 2022 etc.

scale of pay for the said posts in the “E” category of societies was also not prescribed. The said posts were found place only in the A, B categories of societies. Therefore, the appointment of the petitioners itself illegal and it was made beyond cadre strength. Hence, the first respondent rightly re-fix the pay scale to the petitioners and this Court finds no infirmity or illegality in the order passed by the first respondent and the prayer sought for in all the writ petitions are devoid of merits and liable to be dismissed.

11. Accordingly, all the Writ Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

15.04.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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G.K.ILANTHIRAIYAN. J.

rts

To

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