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W.A.No.1295 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM :

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
and
THE HONOURABLE **MR.JUSTICE G. ARUL MURUGAN**

W.A.No.1295 of 2022
and CMP.No.8164 of 2022

- 1 The Additional Registrar/
Managing Director Tamil Nadu Co-operative
Union NVN Maaligai No.170 E.V.R. Periyar
Salai Kilpauk Chennai - 600 010.

.... Appellant

VS

- 1 N.Karthikeyan
S/o.Narayan 96-B Anna Nagar Pollambadi
post Lalgudi-621 711
- 2 R.Ezhilarasi
W/o.Manoharan 452/91B1 Balaji Nagar-II
Angara village Lalgudi Taluk-621703
- 3 M.Kayalvizhi
W/o.Saravanakumar 452/10 8th cross Kamaraj
Nagar (south) Paramasivapuram Angarai
Lalgudi
- 4 N.Nachammi
W/o.Sethuranabm No3 Iswarya Nagar Lalgudi
- 5 D.Vetri selvan
364 Matha koil street Tirumangalam Post



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Lalgudi 621 703

- 6 Jane Jothi
S/o.Joel Amaladoss 1/14C Mela street
Mettupatti post lalgudi Taluk
- 7 J.David Livingston
Plot No.37 Door No.947/4A Iswaraya Nagar
Near Nest school Lalgudi Taluk 621 601
- 8 A.Rajeshkumar
S/o.Arokiasamy 33-L Abisekapuram Lalgudi
621 601
- 9 G.Vijay Anand
S/o.Ganesan 3/14-E South Street Sembarai
lalgudi Taluk-621706
- 10 P.Krishnan
S/o.Palaniandi Solaiammanpatti A.Porvai
post Palakurichi (via) Trichy 621308
- 11 K.Anandhan
S/o.Kaliyan 1/5 North street Sembarai
Lalgudi Taluk 621706
- 12 M.Durai Kandasamy
S/o.Manivannan 5/110 Middle street Pudur
Uthamanur post Lalgudi 621712
- 13 P.Sridar
No.59 North street Lalgudi Taluk-621601
- 14 C.Cletus Sebastin
S/o.Chinniah 4/72 North street
kulamanickam post Ariyalur
- 15 B.Gayathri
W/o.Karthikeyan 448/12A Iswaraya Nagar



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Agilandaeswari Nagar Extension Lalgudi
621601

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- 16 V.Raja Rathinam
S/o.Velayutham No.55 North Srinivasapuram
Lalgudi-621601
- 17 V.Rajagiri
S/o.Velayutham 55 North Srinivasapuram
lalgudi-621601
- 18 R.Chandrababu
S/o.Ravichandran 2/79 West street
Uthamarsedi post Trichy-620 005
- 19 N.S.Sukumar
S/o.Subramanian 48 Pallayakudi Street
Nannimangalam Lalgudi
- 20 K.Gunaseelan
S/o.Kannan 17-B Mankkadu street Pulambadi
psot Lalgudi 621711
- 21 B.Muthusamy
S/o.Balakrishnan No.A31 Union Street Near
ITI Pulambadi post Lalgudi 621 711
- 22 S.Ramkumar
S/o.Subramanian 18/8 Thatampillaiyan koil
street samayapuram Trichy
- 23 P.Vignesh
S/o.Panneer selvam 65 Kamraj Nagar 8th
cross Paramasivapuram Lalgudi
- 24 M.Chinthanaiselvan
S/o.Masilamani 229 South street Lalgudi
621 601



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25 A.Balan
S/o.C.Ariyamuthu Thiruvenganur Thirumanur-
621715

26 N.Srinivasan
S/o.G.Nadimuthu No.140 Railway station Road
Karikadu Pattukottai Thanjavur 614 602

27 S.Prakash
S/o.T.Sekar 3/35 Dharmalingam Nagar
Valavanpuram Road Pattukottai Tanjavur 614
601

28 The Registrar of Co-operative
Societies NVN Maaligai No.170 EVR
Periyar Salai Kilpauk Chennai- 10

.... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 07.01.2022 in WP.No. 3051 of 2021 and WMP.NO. 3432 of 2021 on the file of this Court.

For Appellant : Mr.M.R.Dhalapathy Vigneshkumar
for Mr.A.Selvendran

For Respondent : Mrs.N.R.Jasmine Padma– R1 to R27
for Mr.L.Chandrakumar

JUDGMENT

(Delivered by G.ARUL MURUGAN.,J)

This Writ Appeal is preferred as against order dated 07.01.2022 made in W.P.No.3051 of 2021 where the Writ Court had directed the



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respondent/appellant to consider their claim for grant of time scale of pay on par with the similarly placed persons who had been granted time scale of pay.

2. The Writ Petitioners numbering 1 to 25 were all appointed as Lecturers in Lalgudi Cooperative Polytechnic College and the petitioners in 26 and 27 were appointed as Junior Training Officer in Pattukottai Co-operative Industrial Training Institute under the Tamil Nadu Co-operative Union. It is their claim that they have been appointed on various dates starting from 01.07.2000 to 01.02.2016 in terms of the governing Rules of the appellants and they have been discharging their duties continuously from the date of their appointment.

3. While such being the position, the Government had framed a policy to grant time scale of pay in the services of the similarly placed persons like the writ petitioners who were all appointed on casual basis. As far as the writ petitioners are concerned, though they have been initially paid a sum of Rs.8,500/- as consolidated pay, the same has been increased subsequently to Rs.17,000/- per month.

4. At this juncture, since some of the claim of the other persons were considered, whereby, they have been brought under the time scale of pay, the present writ petitioners have also made a claim that they



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should also be paid time scale of pay on par with similarly placed persons. Since the same was not accepted, they have preferred a Writ Petition.

5. The writ Court, after considering the fact that the petitioners have come up with the claim not for seeking any regularisation but only with the claim to bring them under the time scale of pay, and also noting that the similarly placed persons who have been originally inducted as casual labourers have been extended the benefit of time scale of pay, the respondents/appellants cannot discriminate arbitrarily by denying the benefit to the writ petitioners alone and therefore interfered with the impugned orders passed and directed the respondents to bring the writ petitioners also by granting time scale of pay.

6. Assailing the impugned order in the Writ Petition, the Cooperative Department has preferred this Writ Appeal.

7. Learned counsel for the appellants contended that in fact the order passed by the Writ Court while considering the relief granted to other persons will not be applicable to the case on hand as those benefits were granted to the persons who were recruited on casual basis, prior to 12.03.2001 and in this regard, the Registrar of Cooperative Societies by proceedings dated 21.08.2008 had issued a Circular by extending the



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benefits for the persons recruited between 08.07.1980 and 12.03.2001, whereby, those employees were granted time scale of pay on the condition that they will not demand parity with regular employees and other regular benefits.

8. He further contended that insofar as the petitioners in the present Writ Petitions are concerned, all those persons have been appointed only after the cut off date, i.e., 12.03.2001 and therefore the order passed in the Writ Petition by extending the benefits as granted to the other persons is not factually correct and therefore sought indulgence of this Court.

9. Per contra, learned counsel for the respondents/writ petitioners contended that in fact all the writ petitioners were all appointed under a regular vacancy as per the service rules in force and have been working all along from the date of appointment and therefore only by taking note of their recruitment, the learned Judge has passed orders directing the Society to confer the benefits as granted to the similarly placed persons, which is perfectly justified and sought for dismissal of the Writ Appeal.

10. We have heard the rival contentions of both parties and have perused the materials placed on record.



11. It is seen that several employees of the Cooperative Society were not regularised in the posts in which they have been appointed and pursuant to the representations made by the several employees who were irregularly appointed, the Registrar of Cooperative Societies had come up with the Circular dated 21.08.2008, whereby, all the irregular employees who were recruited between 08.07.1980 and 12.03.2001 who were all already on daily wages and on consolidated pay were extended the benefit of granting time scale of pay.

12. The relevant portion of the Circular is extracted hereunder for easy reference.

It is seen from the reports received from Regional Joint Registrar that of the employees of cooperative societies who are not regularized, majority are already getting their time scale of pay and a section of employees are wither on consolidated pay or on daily wages. Some of the Joint Registrars in their reports have requested that the irregular employees recruited between 8-7-80 and 12-3-2001 and who are already on daily wages or on consolidated pay, may also be give time scale of pay as a majority of the irregular employees recruited in the same period are getting their pay on time scale. Such a move would motivate them for better working efficiency. Also, such a positive move is expected to dispel the discrimination in the minds of the employees and set them prepared on the path of enhanced development of the Cooperative in which they work.

2) The above request of the Joint Registrars were examined in detail and after careful examination of the issue, it is decided to allow the management of cooperative institutions



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of fix time scale of pay to the irregular employees, recruited prior to 12-3-2001 and whose services were not regularized, subject to the following conditions:-

- (a) The employees getting time scale as per this move will not demand parity with regular employees.*
- (b) This will not confer regularization in the post and consequent benefits such as seniority., promotion etc., '*
- (C). The employees getting time scale now as per this order will continue to be treated as "irregular employees" and will be governed by such rules as applicable for this category.*
- (d) Clauses like parity with "Junior getting more pay" will not be applicable in these cases.*
- (e) The irregular employees getting time scale of pay shall not be entitled to claim, any higher salary or weightage for any reasons whatsoever.*
- (f) Giving time scale of pay to the irregular employees shall not confer on them any legal status and they are liable to be terminated at any time if the situation so warrants.*
- (g) Irregular employees getting time scale of pay shall not be legally entitled to claim any service benefits.*
- (h) Their pay shall be fixed in the minimum of time scale of pay applicable to the category of post to which such irregular employees was appointed initially.*
- (i) While fixing scale of pay to the irregular employee, the scale of pay for the category of post in which such employee was appointed initially shall be strictly as per Government orders or Registrar/Joint Registrar instructions in force and higher scale of pay as per 12(3) settlement or 18(1) agreement if any shall be ignored.*
- (j) The fixation of time scale of pay shall take effect from 1-8-2008. cases.*

3) The management of Cooperative Societies before fixing time scale as per the instructions above shall get an undertaking in writing from the employee concerned that he will strictly abide by the conditions stipulated above.

4) The Regional Joint Registrars are requested to bring the contents of this letter to the management of cooperative societies coming under their administrative control and



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ensure that this work is completed before 30-9-2008. They should also send a completion report on or before 5th October 2008 in the format enclosed.'

13. From the Circulars issued, it could be seen that all the employees who were appointed under the daily wages or on consolidated pay, i.e., whose appointments were irregular were considered and as a one time measure, all the employees who have been recruited prior to 12.03.2001 have been extended the benefit of time scale of pay.

14. In so far as the present Writ Petitioners are concerned, the respondents/appellants have furnished the details of the date of their appointments which is extracted hereunder:

S. No.	Name of the Writ Petitioner	Date of joining	Appointment Order dt	Date and mode of wages paid	Date from which engaged on Contract basis	Without Contract basis	Date from which working on Out sourcing basis
1	N.Karthikeyan	01.07.2008	-	From the date of joining to 30.09.2011 on contract basis		01.10.2011 to 25.06.2016 (excluding 5 days)	From 01.07.2016 to till date
2	R.Ezhilarasi	14.07.2008	-				
3	M.Kayalvizhi	15.07.2008	-				
4	N.Nachammai	05.08.2008	-				
5	D/VetriSelvan	24.08.2009	-				
6	Jane Jothi	01.10.2009	-				
7	J.David Livingston	01.10.2009	-				
8	A.Rajeshkumar	28.08.2011	-				
9	G.Vijay Anand	10.02.2012	-				
10	P.Krishnan	01.02.2003	--	From the date of joining to 30.09.2007 Working on hourly basis on working days only	01.10.2007 to 30.09.2011	01.10.2011 to 25.06.2016 (excluding 5 days)	From 01.07.2016 to till date
11	K.Anandhan	15.07.2004	-				
12	M.DuraiKandasamy	01.06.2005	-				
13	P.Sridar	06.07.2005	-				
14	C.Cletus Sebastin	07.07.2005	-	Upto 30.09.2007 Working on hourly basis on working	01.10.2007 to 30.09.2011	01.10.2011 to 25.06.2016 (excluding 5 days)	01.07.2016 To 21.03.2017 (Leave from 22.02.2017
15	B.Gayathri	13.01.2006	-				



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S. No.	Name of the Writ Petitioner	Date of joining	Appointment Order dt	Date and mode of wages paid	Date from which engaged on Contract basis	Without Contract basis	Date from which working on Out sourcing basis
				days only			To 12.06.2018) 13.06.2018
16	V.RajaRathinam	13.08.2007		From the date of joining to 30.09.2007 Working on hourly basis on working days only	01.10.2007 to 30.09.2011	01.10.2011 to 25.06.2016 (excluding 5 days)	From 01.07.2016 to till date
17	V.Rajagiri	26.11.2007					
18	R.Chandrababu	22.06.2013	-	Working on hourly basis on working days only			01.07.2016
19	N.S.Sukumar	22.06.2013	-				
20	K.Gunaseelan	24.07.2013	-				
21	B.Muthusamy	24.11.2014	-				
22	S.Ramkumar	06.02.2015	-				
23	P.Vignesh	01.06.2015	-				
24	M.Chinthanai selvam	01.02.2016	-				
25	A.Balan	01.12.2008	-	Working on hourly basis on working days only			01.12.2017
26	N.Srinivasan	01.04.2010	-		From 01.04.2010 to 31.5.2012	-	From 01.06.2012 to till date
27	S.Prakash	01.04.2010	-		From 01.04.2010 to 31.5.2012	-	From 1.2.2014 to 31.8.2015 From 01.11.2017 To till date

15. From the perusal of the above chart, it could be seen that the Writ Petitioners numbering 27 were all appointed only after the cut off date, i.e., 12.03.2001. Even though learned counsel appearing for the Writ Petitioners contended that the Writ Petitioners are being appointed on regular vacancies based on the service rules in force, since the impugned orders in the Writ Petition has been passed only on the basis of the benefit granted to the other employees based on Circular dated



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21.08.2008, the factual aspect of the matter is that the benefits extended to the other persons had been only pursuant to the Circulars in which the irregularly appointed employees prior to 12.03.2001 alone have been given the benefits.

16. In the instant case, admittedly, since all the Writ Petitioners have been appointed only after 12.03.2001, the claim of the Writ Petitioners that they are also entitled to the benefit of time scale of pay as fixed to the similarly placed persons in view of the Circular as decided by the Writ Court cannot be factually correct, which needs interference.

17. In view of the fact that the Writ Petitioners are not covered by the benefits extended in Circular dated 21.08.2008, the order passed in the Writ Petition directing the appellants to extend the benefits by bringing the Writ Petitioners also into time scale of pay is not justified and therefore the impugned orders in the Writ Petition is set aside.

18. At this juncture, learned counsel for the Writ Petitioners brought to the notice of this Court that the Cooperative Society has already initiated the process of regularising the employees including the Writ Petitioners and therefore the order passed in the Writ Petition granting the benefit of time scale of pay need not be interfered with.



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19. The grant of regularisation or otherwise is within the domain of the appellants after taking into relevant factors, with which we are not concerned in the present appeal. It is always open to the appellants to take a decision by taking into consideration all the other factual and material aspects. It is made clear that the present order in this appeal will not stand in the way of any of the benefits that is sought to be extended by the appellants in favour of the Writ Petitioners.

20. With these observations, the impugned order is set aside and this Writ Appeal stands allowed. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [G.A.M., J]
27.11.2024

sl
Index:Yes/No
Neutral Citation:Yes/No
Speaking order/non-speaking order

To

The Registrar of Co-operative
Societies NVN Maaligai No.170 EVR
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AND
G.ARUL MURUGAN,J.

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