



W.A.No.2910 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2910 of 2021
and
CMP.No.19676 of 2021

The General Manager,
Erode District Milk Producers' Union Limited,
Vasavi College Post,
Erode - 638 316.

... Appellant

Vs.

1. V.Subbarayan (Died)
2. The District Collector (The Special Officer),
Officer of the District Collector,
Erode - 638 011.
3. The Managing Director,
Tamil Nadu Cooperative Milk Producers Federation Limited,
Madavaram,
Chennai.
4. Vasanthi w/o. late V.Subbarayan



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5. Kamalraj s/o late V.Subbarayan

6. Indira

... Respondents

[R4 to R6 brought on record as LR's of the deceased
1st respondent viz., (V.Subbarayan) vide order dated
21.09.2022 made in C.M.P.No.11208/22 in W.A.No.
2910 of 2021 by PUJ & DBCJ]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the
order dated 30.09.2021 passed in W.P.No.23087 of 2009.

For Appellant : Ms.R.Reshma
for Mr.R.Balaramesh

For R1 : Died-steps taken

For R2 & R3 : Mr.G.Krishnaraja
Additional Government Pleader

For R4 & R6 : Mr.S.Kanmani Annamalai

J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

Mr.V.Subbarayan, deceased employee/1st respondent instituted writ
proceedings seeking enhancement of retirement age from 58 to 60 years.



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2. The 1st respondent was originally appointed by the National Dairy Development Board as Cleaner and thereafter, re-appointed by Erode District Co-operative Milk Producers Union.

3. The Erode District Co-operative Milk Producers Union is a co-operative society registered under the Tamil Nadu Co-operative Societies Act, 1983. It is an independent entity and the service conditions of the employees are governed under the special byelaws approved by the Registrar under the Act. Thus, the service conditions stipulated in the special byelaws of the Society alone would be applicable for the retirement age.

4. The Co-operative Society employees are not Government servants. Co-operative Societies, which all are not funded by the State are not a State under Article 12 of the Constitution of India. Therefore, the Management of Co-operative Society is empowered to regulate the service conditions with the approval of the Registrar under the Co-operative Societies Act. Therefore, the employees of Co-operative Society cannot claim the benefit of salary, allowances, retirement age and service conditions on par with the Government servants by relying on the fundamental Rules or any other Government Rules.



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5. In the present case, the writ court has proceeded on the basis that the 1st respondent/Co-operative Society employee is to be treated on par with the Government employee and the fundamental Rules applicable to the Government servants must be applied to these employees and consequently, granted extension of retirement age by issuing a direction to pay salary for two years. The direction would result in opening of Pandoras Box, since all such Co-operative Society employees will also claim extension of retirement age and monetary benefits, which is impermissible under Law.

6. The writ court has erroneously applied the fundamental Rules, which is applicable to the Government servants to the Co-operative Societies employees. Fundamental Rules are applicable only to the Government servants working in the Government of Tamil Nadu and cannot be applied to the employees of the Co-operative Societies.

7. If at all the age of retirement has been enhanced by the Society with the approval of the Registrar of Co-operative Societies, then alone it is to be implemented and not otherwise. There cannot be any comparison with any other society, since each society is an independent entity, registered under the Societies Registration Act.



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8. Mr.S.Kanmani Annamalai, learned Counsel appearing on behalf of the substituted legal heirs of the 1st respondent would submit that the terminal benefits due to the deceased employee is yet to be settled.

9. If so, the said benefits are directed to be settled to the legal heirs of the deceased employee as per the Rules in force.

10. Accordingly, the writ order dated 30.09.2021 passed in W.P.No.23087 of 2009 is set aside and the writ appeal stands **allowed**. No costs. Connected miscellaneous petition is closed.

[S.M.S., J.] [C.K., J.]
27.06.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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Judgment in
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