



W.P.(MD)No.7321 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.7321 of 2024 &
W.M.P.(MD)No.6734 of 2024

R.Ayyasamy

... Petitioner

vs.

1.The Registrar of Co-operative Societies,
Chennai - 600 010

2.The Joint of Co-operative Societies,
Tenkasi Circle,
Tenkasi District

3.The Deputy Registrar of Co-operative societies,
Tenkasi Circle,
Tenkasi District.

4.The Managing Director,
0.965 Sankarankovil Agricultural Producers
Co-operative Marketing Society Limited,
Sankarankovil,
Tenkasi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the fourth respondent vide No.Na.Ka.15/2023 Tho.Ve.Sa. dated 16.03.2023 and



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quash the same as not valid, and pass a direction to the respondents to grant 171% of Dearness Allowance on par with other clerks, in the same co-operative society as per the provisions of Tamil Nadu Co-operative Societies Act, Rules and the Bylaws.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

Heard Mr.F.X.Eugene, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader for the respondents.

2. The petitioner has filed this writ petition praying to issue a Writ of Certiorarified Mandamus calling for the records in the impugned order passed by the fourth respondent vide No.Na.Ka.15/2023 Tho.Ve.Sa. dated 16.03.2023 and quash the same and for a direction to the respondents to grant 171% of Dearness Allowance on par with other clerks in the same Co-operative Society as per the provisions of Tamil Nadu Co-operative Societies Act, Rules and Bylaws.



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3. Mr.F.X.Eugene, learned counsel appearing for the petitioner submitted that the petitioner is entitled to get 171% of Dearness Allowance on par with other clerks of the Co-operative Society as per the provisions of Tamilnadu Co-operative Societies Act and Rules and bylaws. It is submitted that the second respondent has granted 171% of Dearness Allowance to other similarly placed persons and denied the said relief to the petitioner.

4. However, Mr.K.S.Selvaganesan, learned Additional Government Pleader appearing for the respondents submitted that the petitioner got promotion on 30.09.2022 and hence, he will be covered under G.O.(Ms).No.142, Finance (Allowances) Department, dated 17.05.2023 and he cannot claim parity with the persons who are covered under G.O.(Ms).No.143, Finance (Allowances) Department, dated 17.05.2023. It is submitted that the G.O.(Ms).No.143, Finance (Allowances) Department, dated 17.05.2023 is applicable to those persons who are eligible to continue to draw Pre-2016 pay scale and grade pay and not to others. In this impugned order, it is clearly stated that the



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petitioner has been getting new pay after his promotion. In view of the same, he will not be covered under G.O.(Ms).No.143, Finance (Allowances) Department, dated 17.05.2023.

5. On perusal of impugned order, it is seen that there is no mention about any of the Government Orders and no detailed reason has been stated as to why the petitioner is not entitled to get 171% of Dearness Allowance despite he retired on 30.04.2023. Even as per the impugned order, the Basic Pay and Dearness Allowance are being given in accordance with the pay scale fixed in the year 2010.

6. The learned counsel for the petitioner attracted the attention of this Court to the promotion order of the petitioner and another dated 30.09.2022 issued by the third respondent wherein, the petitioner and another person by name Murugan were promoted to Clerk and Cashier respectively and became entitled to the pay meant for the promoted posts. However, in the said order, it is not stated as to how the pay has to be fixed. Even in the impugned order, there is no mention about the



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appropriate Government Order applicable to the case of the petitioner. Since the petitioner claims that similarly placed persons have been benefited, the fourth respondent is directed to re-consider the representation of the petitioner dated 06.03.2023 and pass appropriate orders afresh by stating the Government Order applicable to the case of the petitioner. In case, the petitioner is not eligible to get the Dearness Allowance claimed by him, the reasons for rejection of the same ought to be properly stated.

7. At this juncture, the learned Additional Government Pleader submitted that the rightful remedy available for the petitioner is by way of filing an appeal before the third respondent under Section 153 of Co-operative Societies Act and the petitioner has straightaway approached this Court without exhausting the appeal remedy.

8. Be that as it may, in the impugned order, no reasons are stated as to why the petitioner's claim is rejected and under which Government Order, the petitioner is entitled to draw his pay. Since the



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impugned order is incomplete and without sufficient reasons, I feel that it is liable to be set aside and the matter has to be looked afresh.

9. In view of the above observations, the writ petition is **disposed of** and the impugned order passed by the fourth respondent vide No.Na.Ka.15/2023 Tho.Ve.Sa. dated 16.03.2023 is quashed. The fourth respondent after receiving the particulars with regard to the favourable orders in favour of similarly placed persons as alleged by the petitioner, shall consider the representation of the petitioner dated 06.03.2023 afresh and pass orders by citing the appropriate Government Order applicable to his case within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

15.04.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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R.N.MANJULA, J.

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