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WP No. 5058 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

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THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 5058 of 2024

1. K.Alagarsamy

2.M.Vijayakumar

Petitioner(s)

Vs

1. The State Of Tamil Nadu
Rep By its Additional Chief Secretary to Government,
Co- Operative Food And Consumer Protection Department,
Fort St. George, Secretariat, Chennai-09.

2.The Registrar of Cooperative Societies
No.170, E.V.R. Periyar Salai, Kilpauk,
Chennai-10.

Respondent(s)

PRAYER; The writ petition has been filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relevant to 1st Respondent Government Order made in G.O.(Ms) No.56 Cooperation, Food and Consumer protection (CL2) Department dated 11.05.2020 in so far as the para 13 with regard to "Non duty period of the petitioners which has been treated as Extra ordinary leave without Allowances and without medical Certificate" and the consequential order passed by the 2nd Respondent in proceedings in RC. No.61499/ 2021/EM3 dated 14.11.2023 and quash the same as illegal, improper, unreasonable and thereby direct the respondents to treat the out of employment period of the petitioners as duty period and to grant all other service and monetary benefits to the petitioner based on the G.O. Ms. No. 131



dated 09.11.2019, Cooperation, Food and Consumer Protection (CL2)
Department within a stipulated period of time.

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For Petitioner(s): Mr.L.P.Shanmugasundaram

For Respondent(s): Mrs.Geetha Tamaraiselvam, SGP

ORDER

The petitioners have come out with this writ petition aggrieved by the order of the first respondent rejecting their request to treat the out of employment period as duty period.

2. It is the case of the petitioners that they were appointed as Junior Inspector of Cooperative Societies in the respondents department on a temporary basis by invoking Rule 10(a)(i) of the General Rules of State and Subordinate services. According to the petitioners, they have rendered more than 10 years of continuous service. The petitioners made a representation before the Government to regularise their service. Considering the request of the persons similarly placed like that of the petitioners, the Government issued Government Order in GO.Ms.No.271 dated 10.11.1989 for conducting special qualifying examination for such a temporary junior Inspectors. The petitioners have participated in the qualify examination. However, they failed to clear the examination. The petitioners were ousted from service. According to the petitioner, out of the 63 candidates, 21 candidates were regularised based on the order passed by Tamil Nadu Administrative Tribunal for regularization of their



service. The petitioners filed a writ petition in WP.No.25223 of 2008 and 11322 of 2009. The petitions were disposed of vide common order dated 27.01.2010 whereby the writ petitions were allowed and the respondents were directed to reappoint the petitioners as Junior Inspectors. The said order of the learned Single Judge was taken up on appeal and the Hon'ble Division Bench has confirmed the order passed by the writ Court. As against the judgment of the Division Bench, the Government preferred a Special Leave Petition before the Hon'ble Supreme Court. The Hon'ble Supreme Court was pleased to confirm the order passed by the Division and rejected the Special Leave Petitions. Thereafter, the Government reappointed the petitioners as Junior Inspectors. The grievance of the petitioners is that the period between 10.10.1990 and 04.06.2014 was not taken into consideration and no monetary benefits was granted. The petitioners have stated the case of one Mr.K.Mariappan and the petitioners seek similar treatment for themselves. The said request was rejected by the respondents. Challenging which, the present writ petition has been filed.

3. The learned counsel for the petitioners submitted that though the respondents filed a detailed counter affidavit and in para-8 of the counter, it is made it clear that the first petitioner and one Vijayakumar who were also the petitioners in the earlier round of litigation and they have already paid monetary benefits from the date of their reappointment itself and their services were regularised from 16.10.1989 and they have been brought into the purview of



old pension scheme and non-duty period between 1989 to 2013 were ordered to be treated as qualifying service as to get pensionary benefits. However, the petitioners entitlement with regard to the increment and other benefits have not been discussed in the impugned order.

4. The learned counsel further submitted that they have worked for more than 10 years of continuous service. Without having any valid reasons, the petitioners have been ousted from service by the respondents. Thereafter, as per directions of this Court and the Hon'ble Supreme Court, reinstated them in service on 31.05.2013 without any monetary benefits from 10.10.1990 to 04.06.2013 and the said issues have not been discussed in the impugned order. Therefore, this Court may remand the matter back to the authorities for fresh consideration within the stipulated time as fixed by this Court.

In support of this contention, the learned counsel relied upon the decision reported in the case of 2015 (1) SCC 247 in the case of ***State of Uttar Pradesh and others Vs. Arvind Kumar Srivastava and others*** and the relevant paragraph is extracted hereunder:

"22.1 The normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. No doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service



matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently."

5. The learned Special Government Pleader appearing for the respondents submitted that the petitioners have relied upon Mariappan Case, who is similarly situated person. The said Mariappan was appointed as a Junior Inspector of Cooperative Society temporarily on 10(a)(i) in the year 1985. The Special qualifying examination has been conducted in respect of all temporary workers on 15.10.1985. The said Mariappan has also participated in the examination and passed out. Subsequently, the said Mariappan ousted from service from 1990 onwards. However, his result with regard to the Special Qualifying Examination was withheld by the TNPSC. Therefore, the said Mariappan filed a writ petition in WP.No.43605 of 2002 and this Court vide its order dated 17.07.2006 issued a direction to publish the result and thereby, the result was published and the said Mariappan has cleared the examination and he was re-appointed as Junior Inspector in the Cooperative Society on 21.07.2008. Subsequently, his service was regularised on 21.07.2008. Again the said Mariappan filed another writ petition claiming compensation for out of employment period and the same was allowed by this Court. The said case is not applicable to the present petitioners as the petitioners have failed in the



special qualifying examination. In such circumstances, the petitioners have made a representation to the respondents to settle the monetary benefits on par with the said Mariappan, which is not sustainable. Hence, this Court may dismiss the writ petition.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Admittedly, the petitioners were appointed as Junior Inspectors of Cooperative Societies on 10(a)(i) in the year 1989 and their services were ousted on the ground for want of vacancy. Subsequently, they were reappointed in the year 2013. Though the petitioners have not cleared the qualifying the service which was conducted by the TNPSC. However, they were reappointed in the year 2013 and retired from service in the year 2018.

8. It is the grievance of the petitioners that similarly situated person viz., Mariappan was granted all the benefits and all the allowances and also the benefits have been granted for the non-duty period. The same was not extended to the petitioners in terms of the Government Order in GO.Ms.No.131 dated 09.11.2019. This Court has to consider whether the petitioners are entitled to be treated on par with the said Mariappan and in terms of GO.Ms.No.131 dated 09.11.2019.



9. Admittedly, the petitioners were appointed in the year 1989 whereas the said Mariappan was appointed in the year 1985. Both the petitioners and the said Mariappan have appeared in the Special Qualifying Examination which was conducted by TNPSC on 15.10.1989. The petitioners have not passed out in the examination; whereas the said Mariappan has cleared the examination. It is equally undisputed fact that the said Mariappan ousted along with the petitioners on 09.10.1990. Aggrieved by the same, the said Mariappan filed a writ petition before this Court and this Court issued a direction to pay the arrears by treating the non-duty period as duty period. On that basis, the Government has granted all the benefits to the said Mariappan vide G.O.Ms.No.131 dated 09.11.2019. The comparison of the said Mariappan case is misconceived on the simple ground that the petitioners were reappointed in the year 2013; non-duty period has been treated as duty period and they were brought under old pension scheme and all the benefits were conferred in the year 2013 itself. The petitioners were retired in the year 2018. After retirement i.e. after two years, the petitioners have made a representation in the year 2021 claiming the benefits as per G.O.Ms.No.131 dated 09.11.2019 on par with Mariappan pursuant to the order passed by this Court. The said Mariappan case is not applicable to the present petitioners. Hence, the impugned order passed by the first respondent is perfect and the same cannot be interfered with. If the petitioners want any increment for non-duty period, they are at liberty to make a



fresh representation and establish their entitlement before the first respondent.

Upon satisfaction, the first respondent shall consider and pass orders on merits and in accordance with law.

10. With the above observation, the writ petition is dismissed. No costs.

15-12-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The State Of Tamil Nadu
Rep By Its Additional Chief Secretary To
Government,
Co- Operative Food And Consumer Protection
Department, Fort St. George, Secretariat,
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