



W.P.Nos.22558 and 22559 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 25.02.2025

ORDER PRONOUNCED ON : 17.04.2025

CORAM

THE HON'BLE MRS. JUSTICE N.MALA

W.P.Nos.22558 and 22559 of 2021

S.Michaelraj

...Petitioner in W.P.No.22558 of 2021

S.Loganathan

...Petitioner in W.P.No.22559 of 2021

Vs.

1.The Registrar of Co-operative Societies,

No.170, E.V.R. High Road,

Kilpauk,

Chennai 600 010

2.Management,

Indian Institute of Technology Chennai Employees' Co-operative

Thrift and Credit Society Limited,

Regn.No.XC-98, 2nd Floor, "UTILITY Building"

IIT Campus, Chennai 600 036.

... Respondents in both W.P.Nos.

Prayer in both W.P.Nos.: Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for concerned records from the 1st Respondent, quash the order of the 1st Respondent dated 27.02.2021 bearing Rc.No.24901/2014/B11 and consequently direct the respondents to fix the salary of the employees of the 2nd Respondent Society including the petitioner on par with the employees of Indian Institute of Technology, Chennai with effect from 01.01.2006, pay arrears of salary along with



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interest at the rate of 12% per annum and also calculate the terminal benefits on that basis and pay arrears of terminal benefits award costs.

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For Petitioner in both W.P.Nos : Mr.Balan Haridas

For Respondents in both W.P.Nos : Mrs.M.Geetha Thamaraiselvan

Special Govt. Pleader

for R1

Mr.L.S.M.Hasan Fazil,

Additional Govt. Pleader

for R2

COMMON ORDER

Writ petitions are filed for a writ of certiorarified mandamus to quash the order of the 1st respondent dated 27.02.2021, consequently direct the respondents to fix salary of the employees of the 2nd respondent Society, including the petitioners, on par with the employees of the Indian Institute of Technology, Chennai, with effect from 01.01.2006, pay arrears of salary along with interest at the rate of 12% per annum and also to calculate terminal benefits on that basis.

2. As the facts and the issues raised in the writ petitions are common, the writ petitions are disposed of by this common order.



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3. It is the petitioner's case that from the date of commencement of the 2nd respondent Society, its employees were paid salary on par with the Indian Institute of Technology, Chennai. According to the petitioners, whenever there was salary revision for the employees of Indian Institute of Technology, Chennai, the revised salary was adopted by the 2nd respondent society for its employees. Whiles, the Government issued G.O.Ms.No.89, Cooperation, Food and Consumer Protection Department, dated 16.05.2000, directing all the Societies to fix salary of its employees, as directed in the said Government Order. In pursuance of the said G.O, the 2nd respondent submitted a proposal to the 1st respondent, seeking exemption from the said G.O.Ms.No.89, and for permission to fix the salary of its employees on par with the employees of the Indian Institute of Technology, Chennai. The 2nd respondent further requested the Additional Registrar of Co-operative Societies not to discontinue the pay fixation which was in vogue for 35 years. The 1st respondent on 01.07.2010, sought for clarification with regard to the additional financial burden on the 2nd respondent, in case the Indian Institute of Technology's salary pattern was continued along with details of individual



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employees and their salary details. The 2nd respondent vide letter dated

03.08.2010, furnished the details that were sought for. Thereafter, nothing happened. The employees and the 2nd respondent, gave representations and letters for exemption from the aforesaid G.O.Ms.No.89, and for permission to continue the salary pattern on par with employees of Indian Institute of Technology, from 01.01.2006. The respondents continued to exchange communications, and even thereafter nothing concrete happened. Meanwhile, the petitioners retired on 31.03.2010 and 31.07.2009, and they were settled the terminal benefits as per the pre-revised salary. While settling the petitioners terminal benefits at pre-revised salary, a substantial sum was withheld on the ground that the dearness allowance merger had been made without administrative sanction. The respondents stated that the amount could be released only after the approval of the competent authority. The petitioners stated that after considerable delay, the withheld amounts were released. The petitioner stated that even though they worked for 35 years, they had to retire with meagre terminal benefits, because the salary was not revised from 01.01.2006. Under the circumstances, the petitioners submitted a



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representation to the 1st respondent on 23.12.2013, to revise the salary as per the proposal submitted by the 2nd respondent, dated 03.08.2010, and to pay revised pay and the terminal benefits on the basis of the revised pay. As there was no reply, the petitioners filed W.P.No.4609 of 2014, and this court by order dated 20.02.2014, disposed the writ petition, directing the 1st respondent to consider the petitioner's representation dated 23.12.2013, within eight weeks. In pursuance of the order of this court, the 1st respondent passed order dated 23.08.2014, rejecting the petitioner's request. The rejection order was challenged by the petitioners in W.P.No's.29237 and 29238 of 2014. The said writ petition's were allowed by a common order dated 07.12.2020, by remanding it to the 1st respondent for fresh consideration. Thereafter, the 1st respondent passed the present impugned order dated 27.02.2021, rejecting the petitioner's representation. The petitioner's aggrieved by the impugned order, have filed the above writ petition for the aforesaid relief.

4. The respondents filed counter generally denying all the allegations and contentions raised in the writ petitions. The respondents stated, inter alia, that the



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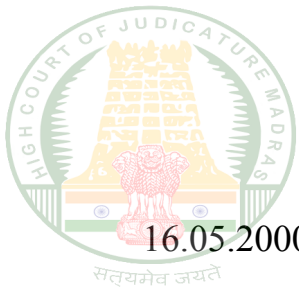
2nd respondent was registered under the provisions of Tamil Nadu Co-operative

Society Act and Rules, that regular employees working in Indian Institute of Technology, Chennai, were members of the 2nd respondent Society and that the 2nd respondent Society was a separate entity and entirely different from the Indian Institute of Technology, Chennai. According to the respondents, the Indian Institute of Technology, Chennai, was a Central Government Institution, with its own modality and it was administered by the Government of India, Ministry of Education. In contrast, the 2nd respondent Society was a Co-operative Society under the Tamil Nadu Co-operative Societies Act, which was formed by the employees of the Indian Institute of Technology, Chennai, for their benefit. The said Co-operative Society was administered by a board of directors elected by the members of the society from among themselves. The respondents stated that the 2nd respondent Society was governed by several bye-laws framed by it, apart from the bye-law relating to the service conditions of its employees. The respondents stated that the service conditions of the society laid down in its bye-laws had no nexus to the service conditions of the employees of the Indian Institute of



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Technology, Chennai. The respondents stated that employees of the 2nd respondent Society, were not employees of Indian Institute of Technology, Chennai, and therefore, they had no legal right to claim pay on par with the employees of the Indian Institute of Technology, Chennai. The respondents further stated that the 2nd respondent Society was governed by provisions of rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988 and its bye-laws and special bye-laws. The respondents relying on Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988, stated that the employees of the 2nd respondent Society, were eligible to receive the pay as prescribed by the Registrar from time to time and they were not eligible to receive any other pay. The respondents stated that the pay and allowances paid by the 2nd respondent Society to its employees were not approved by the Registrar and the same were against bye-laws of the 2nd respondent Society and also Tamil Nadu Co-operative Societies Rules, 1988. The respondents submitted that in order to fix uniform scale of pay and other service conditions to all the employees of Co-operative Societies, the Government issued orders in G.O.Ms.No.89, Cooperation, Food and Consumer Protection Department, dated



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16.05.2000. As the 2nd respondent Society was registered under the Tamil Nadu

Co-operative Societies Act and Rules, though managed by the Board of Management, it was bound by the Act and Rules. The respondents further submitted that the elected board of management, could withdraw any proposal submitted to higher authorities at any point of time. Accordingly, the 2nd respondent, withdrew the proposal submitted already and agreed for implementation of the Government order in G.O.Ms.No.89, Cooperation, Food and Consumer Protection Department, dated 16.05.2000. The respondents therefore submitted that, as the 2nd respondent Society, withdrew the proposal and agreed to follow G.O.Ms.No.89, Cooperation, Food and Consumer Protection Department, dated 16.05.2000, there was no infirmity or illegality in the impugned order. The respondents therefore submitted that there were no merits in the writ petition and hence, the same deserved to be dismissed.

5. The learned counsel for the petitioners submitted that the 2nd respondent Society was a unique Society, where the salary pattern adopted was on par with Indian Institute of Technology, Chennai, and therefore the 2nd respondent sought



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for exemption from G.O.Ms.No.89, Cooperation, Food and Consumer Protection

Department, dated 16.05.2000. The learned counsel submitted that merely because the present employees agreed for implementation of the said G.O, the accrued rights of the petitioners could not be taken away and the petitioner's could not be denied the revised salary from 2006, paid to the employees of the Indian Institute of Technology, Chennai. According to the learned counsel, when the 2nd respondent submitted a proposal for permission to continue salary of its employees on par with Indian Institute of Technology, Chennai, in the absence of a bar either under the Co-operative Societies Rules or in the special bye-law, the respondents ought to have approved the proposal. The learned counsel submitted that in any event, the payment of salary on par with employees of Indian Institute of Technology, Chennai, became a service condition and therefore, the same could not be withdrawn unilaterally, as it would be violative of Section 9(A) of the Industrial Disputes Act, 1947, as well as principles of natural justice. The learned counsel lastly submitted that the petitioner's put in long years of service and therefore as per this court's earlier order, the respondent ought to have considered



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the issue from that angle also.

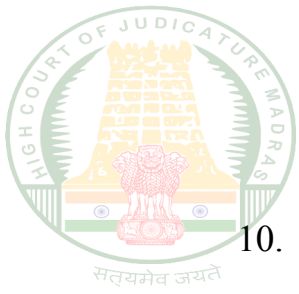
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6. The learned counsel for the respondents reiterated the submissions made in their counter affidavit in support of the impugned order.

7. I have heard both the learned counsels and perused the materials placed on record.

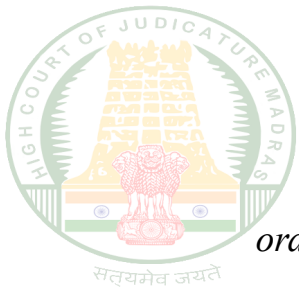
8. In the light of the facts narrated above, the issue that arises for consideration in the writ petitions is whether the petitioners are entitled for revision of pay on par with the employees of the Indian Institute of Technology, Chennai, with effect from 2006 and the consequential relief's prayed.

9. Without entering into the intricacies of the legal dispute, in my view, the writ petition can be disposed of in the light of the observations of this court in the earlier round of litigation.



10. In the previous litigation when the order of the 1st respondent dated 28.03.2014, was challenged by the petitioner in W.P.Nos.29237 and 29238 of 2014, this court passed the following order on 07.12.2020,

“9. Admittedly, the petitioners were appointed in the 2nd Respondent Society and now retired. It is not in dispute that prior to issuance of G.O.Ms.89, the salary were paid to the employees of the 2nd Respondent Society on par with the employees of the Indian Institute of Technology, Chennai. Admittedly, the 2nd Respondent sent the proposal to the authority concerned seeking exemption from G.O. Ms.No.89. It is not in dispute that till the date of filing of these Writ Petitions, the proposal sent by the 2nd Respondent has neither been approved nor been withdrawn. The respondents are vested with a right to either approve or reject the proposal, but not to sit over the said proposal for an interminable period. Without deciding on the said proposal, the impugned order passed by the 1st respondent suffers the vice of illegality. Further, it is to be pointed out that the long years of service rendered by the employees in the society has to be borne in mind while passing orders on their terminal benefits. The terminal benefits granted to the petitioners are not a bounty, but only a way in which their hard and devoted service is being recognised. In the above backdrop, the rejection



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order passed by the 1st respondent is wholly unsustainable and without application of mind and, therefore, the impugned order is liable to be quashed.

10. For the reasons aforesaid, the order impugned herein is quashed and the matter is remanded to the respondents for fresh consideration. The respondents are directed to consider the representation of the petitioner in both Writ Petitions in the light of the orders passed above and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

11. Accordingly, these Writ Petitions are allowed with the above observations and directions. No costs."

11. In pursuance of the said order, the 1st respondent passed the impugned order dated 27.02.2021, rejecting the petitioner's request for fixing their salaries on par with the employees of Indian Institute of Technology, Chennai and other consequential reliefs. In the light of the observation of this Court that the 1st respondent shall consider the issue in the back drop of the hard and devoted service of the petitioner's, it is to be seen, if there would be any unsurmountable



financial liability to the respondents, in granting the relief to the petitioner's alone.

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12. It is seen that the 2nd respondent on 04.03.2009, sent a proposal to the respondents seeking exemption from G.O.Ms.No.89 dated 16.05.2000. It appears from the materials on record that when the proposal was sent by the 2nd respondent society, it was in sound financial health. Moreover the 2nd respondent while submitting additional particulars on 03.08.2010, with reference to the financial implications on 03.08.2010, submitted the following statistical data,

AGEWISE ARREARS OF PAY AND ALLOWANCES PAYABLE FOR EACH STAFF

S.No.	Name of the staff	2005-06	2006-07	2007-08	2008-09	2009-10	Total
1	S.Loganathan	5604	34170	35576	75386	43376	194112
2	S.MichaelRaj	5604	34842	36305	56830	102657	236238
3	A.N.Desappan	5608	32998	34202	54036	91795	218639
4	S.Manimegalai	2616	16142	16476	24843	41431	101508
5	K.Sumathy	2602	15985	16375	24429	39130	98521
	Total	22034	134137	138934	235524	318389	849018

Admittedly, at the time of passing the impugned order, Manimegalai alone was working, Sumathy died and the petitioner's had retired. From the above table, it is clear that the financial burden with respect to the petitioners, who retired in



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2010, was a meagre amount of Rs.4,30,350/-. The 1st respondent, inspite of the specific direction of this court, that the long years of service of the petitioner's should be borne in mind while passing orders on terminal benefits, completely failed to consider the issue from the point of view of the petitioner's long service of 35 years and their struggle for higher terminal benefits.

13. It is undisputed that the 2nd respondent is entitled to seek for exemption. The 1st respondent having referred to Rule 149(1) of the Tamil Nadu Co-operative Societies Rule, 1988 ought to have considered the issue in the light of the factual particulars/ data produced by the 2nd respondent in furtherance of its proposal. The 1st respondent ought to have seen that the petitioner's do not dispute the decision of the new Management to implement G.O.Ms.89, dated 16.05.2000, to its employees, but the petitioner's grievance is that it should be applied prospectively.

14. The 1st respondent further failed to note that right from the date of the petitioner's appointment in 1972, they were paid salary on par with the Indian



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Institute of Technology, Chennai, employees. Even the terminal benefits of the petitioner's were settled in the pre-revised scale of Indian Institute of Technology,

Chennai. In fact, the 1st respondent in the impugned order clearly admits the same.

15. In my view the 1st respondent ought to have approached the issue from the point of view of the long years of service rendered by the petitioner's and on the admitted position that they were paid salary on par with the employees of the Indian Institute of Technology, right from the date of their appointment, till their retirement, besides being paid terminal benefits in the pre-revised scale of pay of employees of the Indian Institute of Technology. The 1st respondent has considered the issue otherwise and therefore I am of the view that the impugned order cannot be sustained. On a conspectus of the entire facts of the case and in view of the fact that the financial expenditure is a meagre sum of Rs.4,30,350/-, as far as the petitioner's alone are concerned, I am not inclined to remand the matter for fresh consideration. As the petitioners retired as early in 2010, and are now aged about 83 years, I prefer to issue appropriate directions to the respondents,



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instead of remanding the matter for fresh consideration.

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16. In the light of the above discussions, the impugned order dated 27.02.2021 is set aside, with directions to the respondents to pay the arrears of salary and allowances calculated at Rs.1,94,112/- and Rs.2,36,238/- as per the 2nd respondents letter dated 03.08.2010, along with interest at 12% per annum, and to disburse the terminal benefits on the basis of the revised pay of Indian Institute of Technology, employees.

The writ petition is accordingly allowed. However, there shall be no order as to costs.

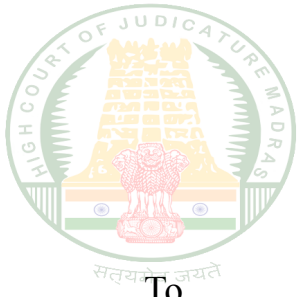
17.04.2025

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

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To
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1.The Registrar of Co-operative Societies,
No.170, E.V.R. High Road,
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N.MALA,J.

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Pre-Delivery Order in W.P.Nos.22558 and 22559 of 2021

Order Pronounced on 17.04.2025