



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-09-2025

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THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

WP No. 30344 of 2019 &

WMP.No.30336 of 2019

1. V.Govindarajulu
S/o.Venkatesan, New No.3, Old No.1/2,
Trust Square Street, Ramalingapuram,
Chennai-12

Petitioner(s)

Vs

1. The Registrar of Co-operative
Societies
170, Periyar EVR High Road, Kilpauk,
Chennai-10.

2.The Additional Registrar of
Co-operative Societies, Chennai
Region, St. Marys Road, Alwarpet,
Chennai-18.

3.The Deputy Registrar (PDS)
Primaries (North), Co-operative
Department, 58, Ibrahim Salai,
Muthiyalpet, Chennai-1.

Respondent(s)



PRAYER

Writ Petition filed under Art.226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 3rd respondent in his proceedings Na. Ka.No.499/2016/APaA dated 3.9.2019 quash the same and directing the respondents to allow the petitioner to draw the pension as of now

For Petitioner(s): Mr. V. Sivalingam
and Ms. S. Thendral
for M/s. C.S.Associates

For Respondent(s): Mr. V. Umakanth,
Govt. Advocate for Respondents

ORDER

The petitioner, by the present writ petition, has assailed the action of 3rd respondent in issuing proceedings No.Na.Ka.No.499/2016/APaA, dated 03.09.2019, whereby, the 3rd respondent had ordered for recovery of additional amount of Rs.1,02,515/- from the petitioner and also by refixing the petitioner's pay scale in the band of Rs. 5200 - 20200 + Grade Pay of Rs.2800 w.e.f. 12.05.2007 as against the pay scale of Rs.9300 – 34800 + Grade pay of Rs.4200 existing at the time of his retirement consequent to his promotion to the post of Junior Inspector w.e.f. 15.07.2009.

2. The petitioner contends that he was initially appointed as Junior



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Assistant on 12.05.1997 and after completion of ten years, was awarded Selection Grade with effect from 12.05.2007 and was paid the Selection Grade Pay; that the petitioner was appointed as Junior Inspector on 15.07.2009; that he retired in the same position on attaining the age of superannuation on 31.03.2013; and that at the time of retirement, the respondent have verified his tenure of service for fixation of pensionary benefits by taking the last drawn pay.

3. It is the further contention of the petitioner that after a lapse of more than six years from the date of retirement, the 3rd respondent, by the impugned proceedings is seeking to revise the pay scale of the petitioner and also recover additional amount paid on the basis of the last drawn pay claiming the said amount as excess payment.

4. Petitioner also contends that awarding of Selection Grade, appointing the petitioner as Junior Inspector w.e.f. 15.07.2009 and also placing in the Grade Pay of Rs.9300 – 34800 + Grade Pay of 4200 are done by the respondents with eyes wide open and as such, the respondents cannot revise the



petitioner's last drawn pay by claiming that the petitioner is not entitled for being granted with the said scale of pay.

5. The petitioner further contended that the post of Junior Inspector to which he was appointed w.e.f. 15.07.2009 does not have promotional avenues and as such, in terms of GO.Ms.234, Finance (Pay Cell) Department dated 01.06.2009 which is given effect from 01.01.2006, he would be entitled for being placed in the scale pay of Rs.9300 – 34800 + Grade pay of Rs.4200 and as such, the respondents cannot deny the benefit of the scale pay which was granted to him on being promoted to Junior Inspector and retired as such.

6. On behalf of the petitioner, it is further contended that the fact of post of Junior Inspector not having any promotional avenues is also clear from the communication dated 03.09.2012, vide Govt. Letter No.12406/CL2/2011-4, Cooperation Food and Consumer Protection Department, Secretariat, Chennai-9, dated 03.09.2012 and as such, the impugned proceedings, whereby the last drawn pay of the petitioner is sought to be revised and also seeking to recover the amount specified therein claiming the same as excess amount paid cannot



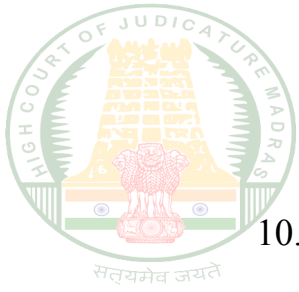
be sustained.

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7. A counter affidavit on behalf of the respondents is filed. The respondents, by the counter affidavit, while not disputing the claim of the petitioner of he having joined the service initially as Junior Assistant and thereafter being awarded with Selection Grade Pay w.e.f.12.05.2007 in respect of his employment as Junior Assistant, however, are silent by their counter affidavit with regard to the appointment of the petitioner as Junior Inspector w.e.f.15.07.2009 and also as to whether there are promotional avenues to the said post.

8. The respondents, on the other hand, by the counter affidavit, have only contended that a person working in Selection Grade post of Junior Assistant would have promotional avenue to the post of Junior Inspector of Cooperative Societies and as such, the petitioner was not entitled to be placed in fixation of Pay Scale in the band of Rs.9300 – 34800 + Grade Pay of Rs.4200/- and as such, the impugned order does not call for any interference.

9. I have taken note of the respective submissions.



10. Firstly, it is to be noted that the petitioner on the date of attaining the age of superannuation i.e., as on 31.03.2013 was working as Junior Inspector to which post, he was appointed on 15.07.2009. Thus, the respondent authorities ought to have considered whether the said post of Junior Inspector, has a promotional avenues rather than seeking to justify their action by claiming that from the post of Junior Assistant Selection Grade, promotional avenue exists to the post of Junior Inspector.

11. Further, it is also to be noted that the respondent Government, by letter dated 03.09.2012 having categorically stated that there is no promotional post of Assistant to the post of Junior Assistant in the Registrar of Cooperative Societies and they are entitled for Selection Grade scale pay as per annexure 1, firstly, the said communication is applicable in respect of Junior Assistant and not in relation to Junior Inspector. Secondly, a reading of the aforesaid letter would also indicate that the Government having inferred that the post of Junior Inspector is not an avenue of promotion for Junior Assistant, but is an independent post, in which case, the respondents by their counter affidavit ought



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to have indicated whether there is any promotional avenue from the post of Junior Inspector either as an Inspector or any other post. However, counter affidavit is silent on the above aspect. Since, it is the specific assertion of the petitioner, that the post of Junior Inspector does not have any promotional avenues and as such, the petitioner is entitled to the pay scale of Rs.9300 – 34800 + Grade Pay of Rs.4200/- and the respondents by taking the aforesaid fact into consideration having placed the petitioner in the aforesaid pay band scale, this court is of the view that the respondents cannot after a period of six years of petitioner's retirement, seek either to reduce the pay scale of the petitioner affecting his pensionary benefits or recover any amount claiming the same as having been excessively paid.

12. It is the trait law that if any excess amount is paid to an employee without fault of employee, recovery of such amount can only be recovered in certain circumstances as detailed in the decision of the Apex Court in the case of *State of Punjab and others Vs. Rafiq Masih (White Washer) and others reported in 2015 4 SCC 334*, which decision has been followed by the subsequent decision, including the latest decision reported in the case of *Union*



of India Vs. N.M.Rao, (2024 SCC Online 3870).

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13. Having regard to the law laid down by the Apex Court and also taking note of the fact that the petitioner had retired as Junior Inspector on 31.03.2013, after being appointed in the said position w.e.f.15.07.2009 and the said post not having any promotional avenues, the exercise sought to be undertaken by the respondent by the impugned proceedings cannot be sustained.

14. Accordingly, the Writ Petition is allowed and the impugned proceeding is set aside. It is declared that the petitioner is entitled to all the consequential benefits. No costs. Consequently, the connected miscellaneous petition is closed.

msr

17-09-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

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