



W.P.(MD) No.12388 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.12388 of 2019

and

W.M.P.(MD) Nos.9243 & 21858 of 2019

General Manager
Madurai District Cooperative
Milk Producers Union Ltd.,
Sathamangalam
Madurai

... Petitioner

-VS-

- 1.M.Muthu Irulappan
- 2.R.Vellaichamy
- 3.M.Balasubramanian
- 4.K.Vishnu
- 5.G.Gurunathan
- 6.P.Kannan
- 7.G.Paulpandi
- 8.G.Rajkumar



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WEB COPY 9.T.S.Dhinakaran

10.L.Murugesan

11.S.Kalyanasundaram

12.G.Ramasubramani

13.A.Abdul Nazar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the award of the Labour Court, passed in C.P.No.19 of 2016, dated 29.03.2019 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.L.George Paul Anto

ORDER

This writ petition has been filed by the petitioner – Union aggrieved by an order dated 29.03.2019, passed in C.P.No.19 of 2016, whereby the learned Labour Court, Madurai, allowed the claim petition filed by the respondents herein seeking fixation of their pay in the pay scale of Rs.2550-55-2660-60-3700 with effect from 12.03.2001.



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2. The brief facts that are relevant for the disposal of this writ petition are as under:

2.1. The respondents herein, who are employed in the petitioner – Union, on temporary basis, made a claim for grant of permanent status by filing an application before the authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Workmen) Act, 1981 (in short, “the Act, 1981”) and the said claim made by the respondents herein was allowed by the said authority directing for regularization of the services of the respondents herein with effect from 12.03.2001. Accordingly, the services of the respondents were regularized with effect from 12.03.2001 by orders issued in G.O.(2D) No.139, Animal Husbandry, Dairying and Fisheries (M.P.II) Department, dated 28.09.2007, however the monetary benefits with effect from the date of the said order i.e., 28.09.2007. The operative portion of the said Government Order, in Paragraph No.4, reads as under:

“4.In exercise of the powers conferred by clause (a) of section 170 of the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983), the Governor of Tamil Nadu hereby exempt the Madurai District Co-operative Milk Producers' Union from the



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provision of sub-rule (3) of rule 149 of Tamil Nadu Co-operative Societies Rules 1988 to the extent necessary, so as to enable the said union to regularise the services of the 68 casual labourers indicated in Annexure 1 and II to this order with effect from 12.3.2001, subject to the condition that the monetary benefit will take effect from the date of issue of the order.”

3. It was pursuant to the said Government Order, the services of the respondents were regularized and their pay was accordingly fixed through proceedings dated 21.07.2008 fixing their pay at Rs.2550-55-2660-60-3200, with effect from 28.09.2007. There is no dispute on this aspect. The claim of the respondents in the present claim petition filed under Section 33C(2) of the Industrial Disputes Act, 1947, is for fixation of their pay with effect from 12.03.2001 in the said pay scale and to give notional fixation of pay till 28.09.2007 and to pay the arrears thereon. The said claim of the respondents was allowed by the learned Labour Court on the premise that the services of the respondents were directed to be regularized with effect from 12.03.2001 and therefore, they are entitled to notional fixation of pay from that date and for payment of monetary benefits with effect from 28.09.2007.



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4. Heard Mr.V.O.S.Kalaiselvam, learned counsel for the petitioner and Mr.L.George Paul Anto, learned counsel appearing for the respondents.

5. After hearing the matter at length, this Court noticed that the pay scale of Rs.2550-55-2660-60-3200 was, for the first time, introduced only through proceedings of the Commissioner, Dairy Development, Chennai, in Na.Ka.No.23216/N1/2006, dated 11.12.2007, for the post of Senior Factory Assistant. The said proceedings is also referred to in the proceedings dated 21.07.2008, whereby the services of the respondents herein were regularized in terms of G.O.(2D) No.139, dated 28.09.2007. If that be the case and the very pay scale of Rs.2550-55-2660-60-3200 came into existence only with effect from 11.12.2007, the question of fixing the pay of the respondents as on 12.03.2001 in the said scale of pay does not arise. The said scale of pay was not in existence on 12.03.2001. Therefore, the question of fixing the pay of the respondents with effect from 12.03.2001 as in the non-existing scale of pay does not arise.

6. It is not in dispute that the pay of the respondents were fixed in terms of the scale of pay attached to the post of Senior Factory Assistant prior to 11.12.2007. The claim of the respondents is only for fixation of their scale



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of pay, which came into existence only with effect from 11.12.2007 for the first time, with effect from 12.03.2001. The said scale of pay was fixed for the post of Senior Factory Assistant only with effect from 11.12.2007, but with prospective effect. Hence, considering the claim of the respondents for fixation of their scale of pay, which came into existence only on 11.12.2007, with effect from 12.03.2001, in the absence of retrospective effect given to the said scale of pay, does not arise. Thus, the calculation filed by the respondents under Exs.P6 to P18 by applying the scale of pay of Rs.2550-55-2660-60-3200 with effect from 12.03.2001 and thereby, fixing the pay notionally till 28.09.2007 cannot be sustained. Hence, the entire claim made by the respondents herein is on total misconception that the scale of pay of Rs.2550-55-2660-60-3200 is applicable from 12.03.2001. On verification of the relevant proceedings dated 11.12.2007, it is now noticed that the said scale of pay came into existence only with effect from 11.12.2007 with prospective effect. Hence, the impugned award cannot be sustained.

7. Accordingly, this writ petition is allowed and the impugned award dated 29.03.2019, passed in C.P.No.19 of 2016, on the file of the learned Labour Court, Madurai, is quashed. In case if the respondents have got any grievance about fixation of their pay in terms of the scale of pay that



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was in existence attached to the post of Senior Factory Assistant prior to 28.09.2007, it is open for them to work out their remedy in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Presiding Officer,
Labour Court,
Madurai.



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MUMMINENI SUDHEER KUMAR, J.

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