

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 6697 of 1998

28-03-2007

Between:-

The Andhra Pradesh Co-operative Societies Secretaries  
&  
Employees Union, Regd. No. B-780, Krishna District Unit,  
Machilipatnam, Krishna district rep., by its General Secy.  
Sri N. Sambasiva Rao.

Petitioner

And

The Government of Andhra Pradesh rep., by its Secretary,  
Co-operation Department, Secretariat Buildings,  
Hyderabad and three others.

Respondents



THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 6697 of 1998

Oral order:

The petitioner is an Employees' Union comprising Co-operative Societies' Secretaries as its members. It seeks a direction to the respondents to extend the scales of pay in terms of Memo No. 5661 dated 14-10-1991 to the members of the petitioner's association as per the annexure to the writ petition and declaration that the action of the respondents in not extending the benefits of the said Memo is illegal and arbitrary.

It would appear that the Paid Secretaries of Primary Agricultural Co-operative Societies, who are members of the petitioner-Society, were getting meagre wages. They thereafter mounted an agitation and represented to the

State Government for extending to them the scales of pay applicable to Cadre-V employees in the District Co-operative Central Banks. There was regnant litigation also. Eventually, the State Government issued a Memo dated 14-10-1991 which reads as under:

*“The Paid Secretaries have been (sic) made representation that the Government may be pleased to modify its stand with regard to treatment of the strike period and other demands. After discussions with the Principal Secretary to Chief Minister and Secretary to Government, Food and Agriculture Department and after further discussions at the residence of the Chief Minister on 16-2-1991, the Government agreed in principle.*

*2. The Commissioner for Co-operation and Registrar of Co-operative Societies in his letter No. 62738/89PACS/Lr.2 (3), dt. 21-2-91 ordered constitution of a Committee to make an in depth study of the service conditions of the Paid Secretaries. But the Union not satisfied with the constitution of the Committee went on strike, from 10-2-1988 to 7-6-1988 (118 days) and 11-3-91 to 24-4-91 (45 days) and the strike was called off. After prolonged discussion with Secretary, Food and Agriculture Department the following understanding was reached between the representative of the Employees Union and the Government.*

*(1) The absence of the Paid Secretaries on account of participation in Strike during 10-2-88 to 7-6-88 (118 days) and 11-3-91 to 24-4-91 for 45 days, shall be treated as Earned Leave to the extent of Leave Eligibility on the date of sanction of leave by the Competent Authority. If Earned Leave is not available, it shall be treated*

*as "Leave not due" to be set off against the Earned Leave to be earned in future.*

- (2) *To revise the pay scales of Paid Secretaries so as to bring them on par with the Supervisor-V Cadre of the District Co-operative Central Banks i.e., 261-112-286-312-18/4-384-22/1-472-26/4-576-33/4-708 along with Dearness Allowance and other Allowances with effect from 1-1-91 to be paid by the Society concerned as per the norms prescribed by the Registrar of Co-operative Societies.*
- (3) *To allow performance based Incentive allowances to be paid by the concerned society as per the norms suggested by the Commissioner for Co-operation and Registrar of Co-operative Societies.*
- (4) *To abolish the Cadre fund, and to collect the dues if any.*
- (5) *To create a corpus fund by raising resource to enable prompt payment of salaries particularly by the financially weak societies. Orders in this regard will be issued separately.*
- (6) *To permit mutual transfers of Paid Secretaries.*

*4.The Commissioner for Co-operation and Registrar of Co-operative Societies is requested to take necessary action on the issues mentioned above."*

When the matter is taken up today, there is no representation on behalf of the respondents.

Paid Secretaries of Primary Agricultural Co-operative Societies are employees of those Co-operative

Societies. Their salaries and emoluments are the care and concern of the Co-operative Societies. These Societies are not funded by the State. They are not instrumentalities of the State either. There is no provision in the A.P. Co-operative Societies Act, 1964, which enables the State or any State actor to fix the pay scales of the employees of these Agricultural Co-operative Societies. In the circumstances, the order of the State Government in Memo dated 14-10-1991, pursuant to the agreement said to have been reached between the Secretary, Food and Agriculture Department, Government of A.P., and the representatives of the Employees Union and the Government is in an agreement that has no efficacy beyond the precincts of the Secretariat. It has no binding efficacy on Primary Agricultural Co-operative Societies, for reasons more than one. The primary reason is that neither the State Government nor any Officer of such Government has jurisdiction to fix the scales of pay of employees of the Primary Agriculture Co-operative Societies. The second reason is that in a reckless exercise without authority, the State has chosen to determine the pay scales and has reached an agreement with Employees Union on an issue which has a direct financial impact on Primary Agricultural Co-operative Societies without the participation of the Primary Agricultural Co-operative Societies in the decision. In any view of the matter, the Memo dated 14-10-1991 issued by

the first respondent is void and wholly unenforceable.

For the aforementioned reasons, no relief can be granted. The writ petition is accordingly dismissed. No costs.

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GODA RAGHURAM, J

Dated:28-03-2007

Pvks/\*