

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE DR.JUSTICE P.DEVADASS

W.A.No.1589 of 2015

P.Kothandaraman

.. Appellant

Vs.

- 1.The Joint Registrar of Co-op. Societies,
Tiruvannamalai Region, Tiruvannamalai,
Tiruvannamalai District.
- 2.The Deputy Registrar of Co-op. Societies,
Tiruvannamalai Circle,
Tiruvannamalai.
- 3.The Special Officer,
H.H.523, Aathurai Primary Agricultural
Co-operative Bank, Aathurai,
Polur Taluk,
Tiruvannamalai District.

..Respondents

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 09.09.2011 passed in W.P.No.5104 of 2009.

Prayer: Petition under Article 226 of the constitution of India praying for issue of a writ of certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No. revision No.20/2008 Sa.Pa.Na.Ka.13423/2008 Sa.Pa., dated 28.11.2008 and quash the same and consequently direct the respondents to reinstate the petitioner in the service of the 3rd respondent Bank with attendant benefits and other benefits.

For appellant : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram,
Spl.G.P. (Co-op.)

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant appeal arises from the order dated 9th September, 2011 passed in W.P.No.5104 Of 2009. The petitioner, impugning the order dated 28th November, 2008 passed by the first respondent, filed the writ petition, seeking a direction to the respondents to reinstate him in service of the third respondent Bank with attendant benefits and other benefits.

2 The indisputable facts in nutshell are that the petitioner was appointed by the then Board of Director of the third respondent as Packer in H.H.523, Aathurai Primary Agricultural Co-operative Bank, Aathurai, Polur Taluk, Tiruvannamalai District on 25th March, 1999 on consolidated pay of Rs.600/- per month. In the meantime, the society was superseded and a Special Officer was appointed. On examination of the appointment of the petitioner, it was found that the appointment of the petitioner was not in accordance with Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988. It was further noticed that the provision of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as "the Act, 1983"), was not applicable to the respondent Bank. Accordingly, the petitioner's service was terminated on 20th May, 2002.

3 Questioning the correctness of the said termination order, dated 20th May, 2002, the petitioner preferred a revision petition under the provisions of Section 153 of the Act, 1983, before the first respondent in R.P.No.20 of 2008, after a period of six years. The Revisional Authority found that the appointment of the petitioner as Weigher was not through the selection committee, which is required under the provisions of law. Thus, it was contrary to sub-rule 4 of the Society. The Revisional Authority examined all facts and held that the appointment was not through the District Employment Exchange office, as required under the provisions of law and also not by the Selection Committee and dismissed the revision petition on 28th November, 2008. Thereagainst, the writ petition was preferred.

4 The learned Single Judge, examining all facts of the case, held as under :

"7.The authority, on the basis of the rival contentions, observing that, a Division Bench of this Court in L.Justine V. Registrar of Co-operative Societies (2002 (4) CTC 385) had held that any appointment made contrary to the cadre strength will be illegal and the matter, when taken on appeal to the Supreme Court, was also confirmed

by the Apex Court in A.Umarani V. Registrar of Co-operative Societies and others ((2004) 7 SCC 112) and therefore, held that the petitioner's contention that he is eligible for absorption as a regular worker cannot be considered and rejected the revision by the impugned order."

5 The appellant reiterated the same submission made before the writ court. We have examined the case from all angles.

6 The appointment of the petitioner was not found in accordance with the provisions of the rules. Even otherwise, it was rightly held that the provisions of the Act is not applicable to the third respondent society. The learned counsel appearing for the appellant/ petitioner has failed to produce any provision of law to negate the observation and findings recorded by the revisional authority as well as by the High Court. No materials have been produced to establish that the appointment was in accordance with the law. Thus, there is no reason to interfere with the termination order, confirmed by the revisional authority as well as by the writ court, in the order sought to be impugned in this appeal. Moreover, the appellant has filed the revision petition after a long period of six years.

7 On consideration of the submissions advanced by the learned counsel for the appellant and on perusal of the pleadings and documents appended thereto, we are of the considered opinion that the order rendered by the learned Single Judge sought to be impugned in this appeal is just and proper, warranting no interference. Resultantly, the writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Joint Registrar of Co-op. Societies,
Tiruvanamalai Region, Tiruvannamalai,
Tiruvannamalai District.
- 2.The Deputy Registrar of Co-op. Societies,
Tiruvannamalai Circle,
Tiruvannamalai.

3.The Special Officer,
H.H.523, Aathurai Primary Agricultural
Co-operative Bank, Aathurai,
Polur Taluk,
Tiruvannamalai District.

+1 cc to Mr. C.Prakasam, Advocate, sr.66368
+1 cc to Mr.C.P.Shanmughasundaram, Advocate, sr.66331
+1 cc to Government Pleader, sr.66011

W.A.No.1589 of 2015

vs CO
kra 22.12.2015



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