

In the High Court of Judicature at Madras

Dated: 15.10.2015

Coram:

The Hon'ble Mr.Justice M.Jaichandren

Writ Petition No.11111 of 2012

E.Umapathy

..Petitioner

Vs.

1.The Registrar of Cooperative Societies,
Cooperative Dept.,
Government of Pondicherry.

2.The Managing Director,
The Pondicherry Building Centre Ltd.,
Pondicherry.

..Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents to grant promotion of Salesman Grade-I to the petitioner and accord consequential monetary benefits, as applicable.

For petitioner	:	Mr.S.Senthilnathan
For respondents	:	M/s.Mani Sundar Gopal, Special Govt. Pleader [P] - R1 Mr.R.Sreedhar, G.A. [P] for R2 -----

O R D E R

Heard the learned counsels appearing on behalf of the parties concerned.

2. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to grant promotion to the petitioner, as Salesman Grade-I, in the 2nd respondent-Society.

3. The learned counsel appearing on behalf of the petitioner had submitted that the petitioner had been appointed, as a Peon, in the 2nd respondent-Society, on 23.12.1994, on daily wage basis. His appointment had been regularised, by an order of the 1st respondent, dated 11.12.1996, on a regular time scale of pay. Even though the petitioner was entitled to be promoted, as Salesman Grade-I, some other persons, who were junior to the

petitioner, were promoted, as Salesman Grade-I, without considering the claims of the petitioner. Hence, the petitioner has filed the present Writ Petition, under Article 226 of the Constitution of India.

4. The learned counsels appearing on behalf of the respondents had stated that the present Writ Petition filed by the petitioner is not maintainable, as the petitioner is primarily seeking a direction against the 2nd respondent-Society, which is a registered Cooperative Society. Further, the petitioner has an alternate efficacious remedy, under Section 84 of the Pondicherry Cooperative Societies Act, 1972, to agitate his rights, if any. Therefore, the Writ Petition is liable to be dismissed.

5. In reply, the learned counsel appearing on behalf of the petitioner had submitted that the Government of Pondicherry has persuasive control over the 2nd respondent-Society, as substantial number of shares of the Society had been allotted to the said Government. He had further stated that directions have been issued to the 2nd respondent-Society, by the Registrar of Cooperative Societies, under Section 81 of the Pondicherry Cooperative Societies Act, 1972, with regard to the pay structure of its employees. He had further submitted that the employees of the 2nd respondent-Society are like Government servants and their pay scales are also similar in nature. Therefore, the present Writ Petition is maintainable, as against the 2nd respondent-Society.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is noted that the 2nd respondent-Society is a registered Society and that the petitioner is an employee of the said Society. His request for being promoted, as a Salesman Grade-I, ought to have been raised before the appropriate authorities concerned, as per the provisions of the Pondicherry Cooperative Societies Act, 1972. The contention raised on behalf of the petitioner that the Government of Pondicherry has persuasive control over the 2nd respondent-Society, is not acceptable. The petitioner has not placed before this Court, the Rules governing his appointment, nor the petitioner has shown any materials to substantiate his claim that the employees of the 2nd respondent-Society are governed or controlled by the Government of Pondicherry. On the contrary, it is noted that the 2nd respondent-Society is administered, as per its bye-laws, which are only contractual in nature.

7. In such circumstances, this Court is of the considered view that the present Writ Petition filed by the petitioner, seeking relief against the 2nd respondent-Society, is not maintainable. Hence, the Writ Petition stands dismissed.

However, it may be open to the petitioner to seek his remedies, if any, before the appropriate forum or authorities, in the manner known to law. No costs. M.P.No.1 of 2012 is closed.

sd/
ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

gs.

To

1.The Registrar of Cooperative Societies,
Cooperative Dept.,
Government of Pondicherry.

2.The Managing Director,
The Pondicherry Building Centre Ltd.,
Pondicherry.

+1 CC to M/s.Mani Sundar Gopal Advocate. SR.NO. 57405

+1 CC to Govt.Pleader Pondicherry. SR.NO.57233

+1cc to R.Sredhar, Advocate sr.56964[26/11/2015]

WP.11111 of 2012

CO-JP
JD 03/11/2015

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