

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.09.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.25091 of 2009 and
M.P.Nos.1 and 2 of 2009

S.Aruna

... Petitioner

Vs

1. The Joint Registrar of
Co-operative Societies,
Salem Circle,
Salem-7.
 2. The Shevapet Urban
Co-operative Bank Ltd.,
No.392, Shevapet,
Salem - 636 002 rep. By
the Special Officer.
 3. The Registrar of
Co-operative Societies,
Kilpauk, Chennai-10.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus calling for the records on the file of the 1st respondent in connection with the order passed by him in his Proc. Na.Ka. 12843/09 NaVa dt 9.11.2009 and quash the same and direct the respondents to revise the scale of pay of the petitioner on par with the scale of pay given to the Junior Assistant in the proceedings dt 26.3.90 of the 2nd respondent with effect from the date of benefits given to the Junior Assistants with all monetary and service benefits.

For Petitioner :Mr.R.Singgaravelan
For R1 and R3 :Mrs.T.P.Savitha Govt. Advocate
for co-operative societies
For R2 : Mr. A.Arumugam

ORDER

The writ petition is filed for the issuance of a certiorarified mandamus calling for the records on the file of the 1st respondent in connection with the order passed by him in his Proc. Na.Ka. 12843/09 NaVa dt 9.11.2009 and quash the same and direct the respondents to revise the scale of pay of the petitioner on par with the scale of pay given to the Junior Assistant in the proceedings dt 26.3.90 of the 2nd respondent with effect from the date of benefits given to the Junior Assistants with all monetary and service benefits.

2. Petitioner was selected for appointment to the post of Typist through the Employment Exchange on merits and joined service on 18.2.1988. After confirmation, she was transferred to the post of Junior Assistant on conversion and was promoted to the post of Senior Assistant. The petitioner further submitted that there is a pay anomaly for her from 01.04.1990 and it is still continuing as on date and according to her, it may even affect her promotion. In this regard, representations were made to first and second respondents and as no action was taken filed a writ petition before this Court in W.P.No. 19634 of 2009. This Court by order dated 24.09.2009 disposed of that writ petition with a direction to first respondent to consider the representation of the petitioner dated 30.06.2009 and pass orders on merits and in accordance with law. However, the first respondent passed an order dated 09.11.2009 rejecting the claim made by the petitioner. Challenging the same, the petitioner is before this Court.

3. According to the learned counsel for the petitioner, the order of the first respondent dated 09.11.09 rejecting her claim on the ground that she was in service as a Typist on the date of revision of scale of pay effected in favour of the Junior Assistants by a Resolution No.1 dated 1.3.90 is not correct since even as per the order dated 09.11.09, she was given the post of Junior Assistant with effect from 01.11.95 and at least after that she should have been granted the scale of pay given to the Junior Assistants. Further, the learned counsel submitted that the posts of Junior Assistant and Typist are on the same cadre as per the Government Orders.

4. On the other hand, according to the respondents the order of the first respondent is very much binding on the petitioner and if she is aggrieved with the same, she should have challenged the same by way of Revision under the provisions of Co-operative Societies Act.

5. Now, the learned counsel wanted to file an appeal against the impugned order under Section 152 of Co-operative Societies Act, 1983 before the Registrar of Co-operative Societies.

6. Hence, the petitioner is permitted to file an appeal against the impugned order before the Registrar of Co-operative Societies within a period of two weeks from the date of receipt of a copy of this order and on such filing, the same shall be entertained without raising any issues with regard to limitation after affording due opportunities to the petitioner and necessary orders be passed on merits and in accordance with law within a period of eight weeks, thereafter.

7. The Writ petition is disposed of in the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Registrar of
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Salem-7.
2. The Shevapet Urban
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No.392, Shevapet,
Salem - 636 002 rep. By
the Special Officer.
3. The Registrar of
Co-operative Societies,
Kilpauk, Chennai-10.

+1cc to Mr.A. Arumugam, Advocate, S.R.No.53236

+1cc to the Government Pleader, S.R.No.53413

KU(CO)
EU(12/10/2015)

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