



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.08.2015

Coram

THE HONOURABLE MR.JUSTICE T.RAJA

WP (MD) No.14200 of 2015

P.Somasekar

.. Petitioner

Vs.

- 1.The Registrar,
Department of Cooperative Societies,
No.170, Periyar EVR Salai,
Kilpauk, Chennai - 600 010.
- 2.The Joint Registrar,
Department of Cooperative Societies,
Trichy Region, Trichy - 620 020.
- 3.The Deputy Registrar,
Department of Cooperative Societies,
Trichy Region, Trichy - 620 020.
- 4.The Managing Director (DGM/Finance/BHEL)
(The Secretary)
B.H.E.Employees Cooperative Bank Ltd (ECB)
BHEL Township, Kailasapuram
Trichy - 620 014.
- 5.The Secretary (DGM/HR/BHEL)
(The Special Officer)
B.H.E.L. Complex Co-operative Labour Contract
Society Ltd., (LCS)
No.Y.T.11, Dr.Ambedkar Nagar,
R.Sector Township
Kailasapuram, Trichy - 620 014.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus call for the records of the 4th respondent in his proceedings in letter MD (DGM/finance/BHEL) dated 09.04.2015 and subsequently the 2nd respondent in his proceedings in RC No: 9024/2014/UB dated 20.04.2015 and quash the same as arbitrary and illegal and further direct the respondents herein to absorb and regularize the petitioner services and along with time scale of pay and all other attendant and monetary benefits and other reliefs which the petitioner is entitled to.

For Petitioner

:

Mr.K.M.Boopathy

For Respondents

:

Mr.T.S.Mohammed Mohideen
Addl.Govt.Pleader



ORDER

This Writ Petition has been filed challenging the proceedings of the fourth respondent in letter MD (DGM/finance/BHEL) dated 09.04.2015 and the subsequent proceeding of the second respondent in RC No: 9024/2014/UB dated 20.04.2015, refusing to consider the request of regularisation of service of the petitioner.

2. The learned counsel appearing for the petitioner brought out the case before this Court that the petitioner having joined in service of the fourth respondent/bank, even after completion of $1\frac{1}{4}$ century years of service i.e., 25 years of service, the respondents have not come forward to regularise his service. When the petitioner made representation before the Managing Director and simultaneously before the Joint Registrar, both the Managing Director of the Bank and Joint Registrar have rejected the request of the petitioner. The impugned order passed by the Managing Director dated 09.04.2015 proceeds on the footing that the Bank had never appointed the petitioner as its staff, since he was engaged purely on contractual basis to undertake the unskilled works as mentioned in the contract with the employer viz., BHEL Complex Co-operative Labour Contract Society Ltd., On the other hand, the order passed by the Joint Registrar of Cooperative Societies, Tiruchirapalli proceeds on the footing that the Joint Registrar, Cooperative Society, Tiruchirapalli has no power to direct regularisation of service of an employee who has completed 480 days, over a period of 24 months, whose appointment was purely on contractual basis. Challenging both orders, the present Writ Petition has been filed.

3. Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader appearing for the respondents taking heavy reliance from the ratio laid down by this Court in the case of *Marappan K. v. The Deputy Registrar of Co-operative Societies, Namakkal*, reported in [2006(4) CTC 689], submitted that this Court has clearly held in similar circumstances that a writ petition challenging the order passed by a private bank does not fall within the definition of the 'State' or local or other authorities under the control of the Government within the meaning of Article 12 of the Constitution of India, hence no writ will lie against Cooperative Society. This Court also has no difficulty to accept this proposition. This apart, the petitioner has got an effective remedy of Revision as provided under Section 153 of the Tamilnadu Cooperative Societies Act.

4. Therefore, this Court without going into the merits of the matter, considering the fact that there has been more effective and statutory remedy of Revision is available under Section 153 of the Cooperative Societies Act, the Writ petition is dismissed directing the petitioner to approach the Revisional Authority namely, the Registrar, first respondent herein within one week from the date of receipt of a copy of this order. On such filing of the Revision Petition, the Registrar is directed to consider the same on merits and pass appropriate

5. This Court taking note of the fact that petitioner has



rendered more than 25 years of service, hereby directs the Registrar, Department of Cooperative Societies, Chennai, first respondent herein to expeditiously dispose of the Revision to be filed by the petitioner on merits preferably within a period of four months from the date of receipt of a copy of this order. The Registry is directed to return the original impugned order after getting endorsement from the learned counsel for the petitioner and taking photocopy of the same.

sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

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To

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+one cc to M/s.K.M.Boopathy, Advocate in SR.NO.45661/15

+one cc to The Special Government Pleader, SR.No. 45939/15

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CSL/JGB/06.10.2015

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