

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.22463 of 2016
and W.M.P.No.19183 of 2016

K.Muthuvel

.. Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies
Erode Region, Erode.

2.The President

K 626 Chettipalayam Primary Agricultural Co-operative Society
E.Chettipalayam
Elathur Village
Gobichettipalayam.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, to direct the respondents to retain the petitioner in service as PDS Salesman in the 2nd respondent Society till attaining the age of 60 years in view of the special by-law of the 2nd respondent Society and pass such further orders as it may deem fit.

For Petitioner	:No Appearance
For Respondents	:Mr.A.Kumar Special Government Pleader for R.1 Mr.L.P.Shanmughasundaram Special Government Pleader for R.2

ORDER

This Writ Petition has been filed to issue a Writ of Mandamus, to direct the respondents to retain the petitioner in service as PDS Salesman in the 2nd respondent Society till attaining the age of 60 years in view of the special by-law of the 2nd respondent Society.

2. The petitioner joined as Salesman in the 2nd respondent Co-operative Society in 08.05.1997 on daily wage basis. Subsequently, his services were regularized on contract basis from 01.08.1998. The grievance of the petitioner is that he has completed 58 years of service on 04.06.2016 and as per the by-law of the 2nd respondent Co-operative Society, he can continue in service till attaining the age of 60 years. The petitioner has made a representation, on 14.03.2016, requesting to permit him to continue the service till attaining the

age of 60 years. But, there was no response. Hence, the Writ Petition has been filed.

3. On the earlier two occasions, when the matter was taken up, this Court directed the petitioner to produce the by-law of the Co-operative Society, to ascertain, whether the retirement age is 58 or 60 years, but, it has not been produced by the petitioner. Today, when the matter is called, there is no representation for the petitioner, due to Advocates' Boycott, whereas, the learned Special Government Pleader, who took notice on behalf of the respondents 1 and 2, would firstly bring to the notice of this Court that the petitioner has already been relieved from service on attaining the age of superannuation i.e., on attaining the age of 58 years, as early as on 30.06.2016, therefore, he is no more in service. Secondly, the learned Special Government Pleader appearing for the respondents 1 and 2 have produced a copy of the by-law before this Court, in which, in Clause 10-Age of Retirement, it is specifically stated that the age of retirement shall be 58 years for Secretary, Assistant Secretary, Manager/Accountant, Senior Clerk/Cashier/Clerk/Typist/ Jewel Appraiser/Junior Assistant/Junior Clerk, Fertilizer Salesman and Driver and be 60 years for Peon and Watchman.

4. On a reading of Clause 10 of the Special By-Laws relating to service conditions of the Employees of the K 626 Primary Agricultural Co-operative Credit Society Limited, it is clear that the age of retirement for many post, including the post of Salesman is 58 years, and for the post of Peon and Watchman alone, the age of retirement is 60 years. Hence, the prayer relief sought for by the petitioner in this Writ Petition, to direct the respondents to retain him in service as PDS Salesman in the 2nd respondent Society till he attains the age of 60 years, in view of the special by-law of the 2nd respondent Society, does not arise for consideration. Recording the submission of the learned Special Government Pleader appearing for the respondents 1 and 2, this Writ Petition is dismissed at the admission stage itself. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

सत्यमेव जयते
Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Joint Registrar of Co-operative Societies
Erode Region
Erode.

2.The President

K 626 Chettipalayam Primary Agricultural Co-operative Society
E.Chettipalayam
Elathur Village
Gobichettipalayam.

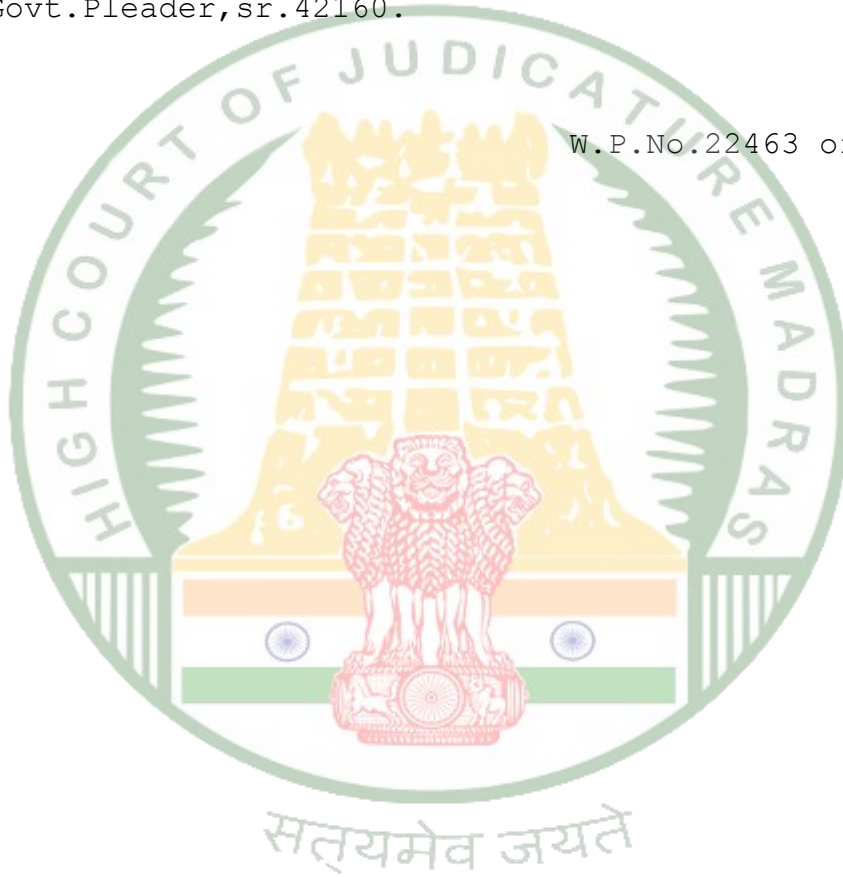
+1 cc to M/s.P.Saravana Sowmiyan, advocate,sr.42538

+1 cc to M/s.L.p>Shanmuga sundaram, advocate,sr.42095

+1 cc to Govt.Pleader,sr.42160.

ctk(co)
krd 9/8

W.P.No.22463 of 2016



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