

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.42313 of 2016

P.Balasubramanian

... Petitioner

Vs.

- 1.The Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
Fort St. George, Chennai-600 009.
- 2.The Registrar of Co-operative Societies,
EVR Periyar Salai,
Kilpauk, Chennai-600 010.
- 3.The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal,
Namakkal District.
- 4.The Deputy Registrar of Co-operative Societies,
Namakkal Circle, Namakkal & District.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to include the name of the petitioner in the panel of the year 2015-16 for promotion to the post of Deputy Registrar by considering the representation dated 12.09.2016 made by the petitioner, within the time to be stipulated by this Court.

For Petitioners

: Mr.R.Chandrasekaran

For respondents

: Mr.L.P.Shanmugha Sundraram, Spl GP

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to include the name of the petitioner in the panel of the year 2015-16 for promotion to the post of Deputy Registrar by considering the representation dated 12.09.2016 made by the petitioner, within a time frame.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner was initially appointed as Junior Inspector on 04.08.1986, through TNPSC. Thereafter, he was promoted to the post of Senior Inspector and then, to Co-operative Sub-Registrar on 09.10.2000. At present the petitioner is working as Co-operative Sub-Registrar (PDS), Rasipuram Block, Namakkal District.

2-2. The petitioner was given the post of full time Special Officer of District Co-operative Printing Press on foreign service. Apart from that, he had to look after eight Primary Agricultural Co-operative Societies in the capacity of Special Officer (incharge). Hence, there was heavy work load on the petitioner. While so, he was additionally holding the post of Special Officer of Sevvanthipatti Primary Agricultural Co-operative Society, Namakkal, for the period from 25.11.2007 to 24.05.2010 and again from 25.11.2010 to 21.06.2011. At that time, one Thiru.K.Mathialagan, who was holding the post of Manager/Secretary of the Sevvanthipatti Primary Agricultural Co-operative Society, Namakkal, had withdrawn an amount of Rs.10.42,752/- from the District Central Co-operative Bank, Namakkal, and did not remit the same into the said Society's account and thus, he misappropriated the said amount, by entering false records in the accounts book of the Society. While so, the said Mathialagan died on 19.01.2011. In connection with the said misappropriation of the money, the 4th respondent had appointed an Enquiry Officer and accordingly, an enquiry was conducted and the Enquiry Officer submitted his report on 09.11.2011. Thereafter, the 4th respondent had issued surcharge proceedings dated 01.02.2012 against the petitioner and two other officials and also as against the wife and sons of the said Mathialagan, alleging financial loss to the Society. The petitioner had submitted his detailed explanation on 21.05.2012 to the respondent stating that the said Mathialagan (deceased), who was holding the post of Manager/Secretary of the Sevvanthipatti Primary Agricultural Co-operative Society, Namakkal, had misappropriated the Society's fund in connivance with the other officials of the said Society. However, the 4th respondent passed an order on 30.06.2012 holding that the petitioner and the other five persons are responsible for the financial loss to the Society and ordered to recover the amount with interest at 12% from them.

2-3. It is further stated by the petitioner that for the above said charges, the 3rd respondent herein had issued a charge-memo on 11.04.2012, so as to take disciplinary action against the petitioner, for which the petitioner had submitted his explanation denying the charges. However, an Enquiry Officer was appointed by the 4th respondent, who conducted

enquiry and submitted his report on 22.11.2012 holding that he is not responsible for the charges framed against him. On the basis of the said enquiry report, the petitioner had submitted his explanation on 26.12.2012 requesting the respondents to drop the charges against him. Considering the request of the petitioner as well as the enquiry report, the 3rd respondent had dropped the charges against the petitioner by an order dated 31.12.2012.

2-4. Now, the respondents are preparing a panel for promotion to the post of Deputy Registrar and the petitioner is eligible to be included in the said panel. However, the 3rd respondent did not include the name of the petitioner in the said panel, stating that surcharge proceeding is pending against the petitioner. According to the petitioner, the action of the 3rd respondent in not including the petitioner's name in the promotion panel, is illegal, arbitrary and unsustainable in law. In this regard, the petitioner made a representation on 12.09.2016 requesting the 2nd respondent to include his name in the panel of the year 2015-2016 for promotion to the post of Deputy Registrar. Since the petitioner's representation was not considered by the respondents, the petitioner has come forward with the present writ petition.

3. Though the writ petition is filed for a large relief, when the matter is taken up for consideration, the learned counsel for the petitioner submitted that if a direction is issued to the 2nd respondent to consider the representation dated 12.09.2016 given by the petitioner, it would suffice.

4. Heard the learned Special Government Advocate appearing for the respondents and perused the materials available on record.

5. Considering the limited scope of the prayer sought for by the learned counsel for the petitioner, without expressing any opinion on the merits of the claim of the petitioner, this Court directs the 2nd respondent to consider the representation dated 12.09.2016 given by the petitioner and to pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of.
No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

SSV

To

1.The Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
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2.The Registrar of Co-operative Societies,
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3.The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal, Namakkal District.

4.The Deputy Registrar of Co-operative Societies,
Namakkal Circle, Namakkal & District.

+1 cc to Mr.R.Chandrasekaran Advocate sr70806

+1 cc to Government Pleader High Court Madras
sr 71427

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