



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :30.06.2016
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.10887 of 2016

and

WMP (MD) No.8429 of 2016

A.Malaichamy

.. Petitioner

vs.

1.The Joint Registrar of Cooperative Societies,
Sivagangai District,
Sivagangai.

2.The Deputy Registrar of Cooperative Societies(PDS),
Sivagangai District,
Sivagangai.

3.Q1253 Nagarakudi Primary Agricultural
Co-operative Credit Society,
Rep. By its President,
Nagarakudi,
Ilayankudi Taluk,
Sivagangai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to allow the petitioner to work as salesman in the 3rd respondent society up to the age of 60 years with all benefits.

For Petitioner :Mr.K.Balasubramanian

For R-1 & R-2 :Mr.T.R.Janarthanam,

Additional Government Pleader

For R-3

:Mr.R.Velmurugan

ORDER

The petitioner Mr.A.Malaichamy, who is serving as a salesman in the third respondent Co-operative Society, has reached the age of superannuation, namely, 58 years, today. However, before reaching the age of retirement when he was informed to get ready to retire from service by the third respondent society, he has come to this court on 20.06.2016, seeking for issuance of a Writ of Mandamus directing the respondents to allow the petitioner to work as salesman in the 3rd respondent society up to the age of 60 years with all benefits.

2. The learned counsel appearing for the petitioner would submit that the age of retirement of basic servants, namely, D-Servants, is 60 years. Therefore, in the light of the approved bylaw No.12 r/w Rule 56(1)(1) of Tamil Nadu Basic Service Rules and Fundamental Rule r/w Rule 149(3) of the Tamilnadu Cooperative



Societies Rules, 1988, the respondents shall allow him to work till he reaches the age of 60 years. Adding further, he would further submit that when the third respondent Society, is governed by the special bylaws in the matter of the age of retirement from the service of third respondent society, the Rules applicable to the Government servants, shall be followed. Further, the employees working in the basic service gets superannuation only on attaining the age of 60 years. Because, as per the fundamental Rules, the age of retirement for the persons working in the basic service, is 60 years. Therefore, retirement of a salesman in the third respondent society, should also be given the benefit of retirement at the age of 60 years, although bylaw No.11 of the third respondent society says that the retirement age is 58 years for Secretary, Assistant Secretary, Manager/Accountant, Senior Clerk, Cashier/Clerk/Typist/Jewel Appraiser,, Fertiliser Saleman/Attendar and Driver, for the simple reason that the Model Bylaws relating to the service conditions of the employees of the co-operative societies under Chapter VIII clearly shows the categories of employees of the societies and Feeder categories therefor, wherein Salesman, Attender, Driver and peon are provided under one category. Therefore, when peon is given the benefit of retirement at the age of 60 years, the salesman, who is also working in the same category, shall be given the same benefit. For that, the petitioner has given a representation to the respondents on 04.06.2016, but the same was rejected, he pleaded.

3. Heard the submissions made on either side and perused the materials available on record.

4. Reading of bylaw 11 under chapter II of special bylaws relating to conditions of the employees of the primary Agricultural cooperative credit society shows as follows:

"The age of retirement shall be 58 years for Secretary, Assistant Secretary, Manager/Accountant, Senior Clerk/Cashier/Clerk/Typist/Jewel Appraiser, Fertilizer Salesman/Attender and Driver and be 60 years for Peon and Watchman."

5. A cursory reading or a careful reading of the above bylaw 11, makes things absolutely clear that the age of retirement of Fertiliser Salesman/Attender and Driver, is only 58 years. Only for Peon and Watchman, the age of retirement has been fixed at 60 years. Therefore, when the bylaw is very clear as contended by the learned counsel for the respondents, the question of raising any doubt with regard to the age of retirement of a Salesman, does not arise. Therefore, this Court is of the view that the respondents had rightly indicated the petitioner to retire from service and had rightly rejected the representation of the petitioner.



6. In view of the above, this Writ Petition fails and the same is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Records)
/True Copy/

Sub-Assistant Registrar

To

1. The Joint Registrar of Cooperative Societies,
Sivagangai District,
Sivagangai.
2. The Deputy Registrar of Cooperative Societies (PDS),
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Sivagangai.
3. Q1253 Nagarakudi Primary Agricultural
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Rep. By its President,
Nagarakudi,
Ilayankudi Taluk,
Sivagangai District.

+One cc to Mr.K.Balasubramanian, Advocate, SR.No.34617
+One cc to Mr.R.Velmurugan, Advocate, SR.No.34414
+One cc to The Special Government Pleader, SR.No.34367

pm

RL/7C/3P/GSV/PM/21/7/2016

W.P. (MD) No.10887 of 2016

30.06.2016