



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2016

C O R A M

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition(MD)No.16514 of 2016
and
W.M.P(MD)No.12044 of 2016

S.Rajendran

.. Petitioner

Vs.

1.The Registrar of Cooperative Societies,
Chennai.

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

3.The Deputy Registrar of Cooperative Societies,
Sivagangai District

4.The President,
NN191, Maravamangalam Primary Agricultural
Cooperative Credit Society,
Maravamangalam,
Sivagangai District.

..Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents to permit the Petitioner to continue in his service as Clerk in the fourth respondent Society till he attaining the age of 60 years as per rule 56(1)(a) of the Tamil Nadu Government Fundamental Rules read with Rule 149(3) of the Tamil Nadu Cooperative Societies Rules, 1988.

For Petitioner	: M/s.G.Prabhu Rajadurai.
For Respondents	: Mrs.S.Bharathi Govt.Advocate

O R D E R

Mrs.S.Bharathi, learned Government Advocate, takes notice for the respondent. By consent of both parties, the Writ Petition itself is taken up for final disposal at the admission stage itself.

2.Mr.S.Rajendran, the Petitioner herein, was appointed as Salesman by R4/the President of NN191, Maravamangalam Primary Agricultural Co-operative Credit Society, Maravamangalam, Sivagangai District on 22.05.1979 and subsequently, he was promoted

as Attendar in the year 1992.

3. Since the Petitioner rendered a satisfactory service, he was promoted to the post of Clerk. While serving so, on reaching the age of 58 years I.e., on 31.08.2016, the Petitioner has been placed under suspension. His case is that when the post of Salesman to which he was originally appointed and the promotional post of Clerk are coming under the Tamil Nadu Basic Subordinate Service Rules, in particular, as per the first proviso to Section 56(1) of the Tamil Nadu Government Fundamental Rules, he is not definitely coming under the purview of superior service. That being so, he should be given the benefit of working till he reaches the age of 60 years, for the simple reason that the bye-law clearly says that in the matter of appointment and retirement the age of the employees working in Co-operative Societies, what is provided for Government service as contemplated under the Fundamental Rules will be applicable.

4. Similar issue as the one now raised has already been exhaustively dealt with by me while passing orders in a batch of Writ Petitions in W.P(MD)Nos.14737,14790,13416, 10299, 9617 to 9621 and 13562 of 2016, dated 30.08.2016 After referring to G.O.Ms.No.1962, Public(Services-G)) 25th June 1971, which deals with constitution of various clause and categories of Government Service from category 1 to 86, I have come to the conclusion that except the service of Office Assistant, Head Office Assistant, Chobdar or Duffadar or a post, the pay of which does not exceed Rs.750/-, other posts are brought under ''superior category''. Therefore, the prayer of the Petitioner cannot be granted. Moreover, the explanation given under Section 19 of the Tamil Basic Subordinate Service Rules, giving quietus to the Petitioner's arguments, is given as under:

Class V: Any other person, who is in basic service as defined in subsidiary definition (iii) under Fundamental Rule 9 and who has not been included in any other service. F.R.9(iii) reads as follows:

''Basic Service includes all services in the following appointments unless declared by Government to be superior:-

(a) Service as Office Assistant, Head Office Assistant, chobdar or

Duffadar;

(b) Service in Posts the pay of which does not exceed Rs.750/-

All other service is superior.

Explanation: The classification of the posts in the manner indicated above shall not preclude the incumbent of the posts from drawing pay in the scales which are applicable to them prior to coming into force of the Special Rules. ''



5. In view of the above, this Court finds no merit in the writ Petition and accordingly, the same stands dismissed. No costs. Consequently connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

vsn

To

1. The Registrar of Cooperative Societies,
Chennai.
2. The Joint Registrar of Cooperative Societies,
Sivagangai District.
3. The Deputy Registrar of Cooperative Societies,
Sivagangai District
4. The President,
NN191, Maravamangalam Primary Agricultural
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Sivagangai District.

+1 cc to Mr. G.PRABHU RAJADURAI, Advocate, Sr.No: 49636

JAM/SKS-RR/26.09.16 3P-6C

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