



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

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WEB COPY

THE HON'BLE Dr.JUSTICE S.VIMALAW.P(MD) No.16864 of 2016andWMP(MD)12227 of 2016

S.Muniraja

... Petitioner

-vs-

- 1.The State of Tamil Nadu
rep.by its Secretary,
Department of Co-operative Food and
Consumer Protection, Fort St.George,
Chennai - 600 009.
- 2.The Registrar of Co-operative Societies,
O/o.the Registrar of Co-operative Societies,
Kilpauk, Chennai - 600 010.
- 3.The Regional Joint Registrar of Co-operative
Societies, Department of Complex,
District Employment Exchange office Buildings,
Theni District.
- 4.The Management,
A, 1170, Kuchanoor Primary Agricultural
Co-operative Credit Society Ltd.,
Kuchanoor - 625 525,
Theni District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the 3rd respondent dated 06.03.2015 bearing Na.Ka.58/15 Nu.Ku(2) and quash the same and direct the respondents to provide suitable employment to the petitioner on compassionate grounds based on his qualification.

For Petitioner : Mr.R.Saravanan

For RR - 1 to 3 : Mr.V.R.Shanmuganathan
Additional Government Pleader
: Mr.T.S.Mohammed Mohideed

Additional Government Pleader



O R D E R

This writ of Certiorarified Mandamus has been filed, to quash the impugned order passed by the third respondent dated 06.03.2015 and consequently, direct the respondents to provide suitable employment to the petitioner on compassionate grounds based on his qualification.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 to 3 and the learned Additional Government Pleader for the fourth respondent.

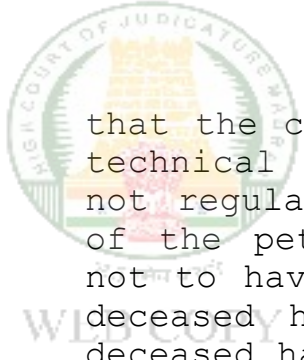
3. The petitioner's father M. Surulinathan joined as a Packer in the fourth respondent society on 09.01.1991 and he rendered his continuous and unblemished service till 18.07.2011. He died on 18.07.2011 in harness, while he was working under the fourth respondent, leaving behind his legal heirs viz., the petitioner herein along with one Selvi and Muthuselvam (the petitioner's mother and brother respectively).

4. The petitioner has made a representation to the respondents along with 'no objection letter' received from the other legal heirs of the petitioner's father, for getting appointment on compassionate ground. The third respondent has passed the impugned order dated 06.03.2015 stating that the service of the petitioner's father has not been regularised and therefore, the petitioner is not entitled to get appointment on compassionate ground. This order is under challenge in this Writ petition.

5. The learned Special Government Pleader and Additional Government Pleader appearing for the respondents justified the order passed by the third respondent stating that the service of the petitioner's father was not at all regularised and therefore, the petitioner is not entitled to get appointment on compassionate ground.

6. Whether this contention is correct or not is the issue to be considered by this Court.

7. The learned counsel for the petitioner has relied upon the decision of the Hon'ble Supreme Court rendered in the case of **Balbir Kaur vs. Steel Authority of India Ltd.**, reported in **2000 (6) SCC 493**, wherein, it has been held that in the case of appointment, considering the social and economic justice as enshrined in the Constitution of India is the primary factor to be considered, denial of deserving cases are liable to be set aside. This Court in WA(MD)No.588 of 2011 dated 12.02.2013 has also held



that the claim of the petitioner cannot be rejected on the hyper-technical ground that the writ petitioner's father's service was not regularized in spite of recommendation. Therefore, the claim of the petitioner for appointment on compassionate ground ought not to have been rejected on the ground that the services of the deceased had not been regularised. The fact remains that the deceased had rendered 20 years of service.

8. Accordingly, the order declining compassionate appointment on the ground that the services of the petitioner's father had not been regularised, is set aside and the petitioner is directed to send a copy of the representation dated 02.02.2015 by enclosing a copy of the orders passed in W.A.(MD)No.588 of 2011 to the third respondent and on receipt of the same, the third respondent shall consider the case of the petitioner in the light of the orders passed in W.A(MD)No.588 of 2011 within a period of four weeks from the date of receipt of a copy of this order.

9. The Writ Petition is ordered accordingly. No costs. Consequently, WMP(MD)12227 of 2016 is closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

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To

1. The Secretary,
State of Tamil Nadu
Department of Co-operative Food and
Consumer Protection, Fort St. George,
Chennai - 600 009.
2. The Registrar of Co-operative Societies,
O/o. the Registrar of Co-operative Societies,
Kilpauk, Chennai - 600 010.
3. The Regional Joint Registrar of Co-operative
Societies, Department of Complex,
District Employment Exchange office Buildings,
Theni District.

+1cc to Mr.R.Saravanan, Advocate Sr.No. 69418
+1cc to Spl. Government Pleader Sr.No.68844
JAM/20.02.17 /SV-MMS/ 3p-6c

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WMP(MD)12227 of 2016
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