



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P. (MD) No.24220 of 2016

WEB COPY

K.MUTHAN
S/O.KOOTHAN

... Petitioner

Vs.

1 THE JOINT REGISTRAR OF
COOPERATIVE SOCIETIES COOPERATIVE SOCIETIES
MADURAI

2 THE PRESIDENT
Ayyur Primary Cooperative Bank,
Ayyur, MADURAI DT

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to allow me to work as salesman in the 2nd respondent society up to the age of 60 years with all benefits.

For Petitioner : Mr.R.Rajaraman
For Respondents : Mr.A.K.Baskarapandian
Spl. Government Pleader

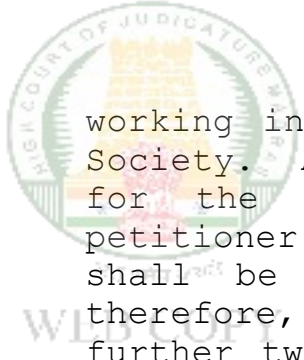
ORDER

The prayer in the writ petition is for a writ of Mandamus to direct the respondents to allow the petitioner to work as salesman in the 2nd respondent society up to the age of 60 years with all benefits.

2. Mr.A.K.Baskarapandian, Special Government Pleader, accepts notice for the respondents. With the consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission.

3. The short facts leading to the filing of the writ petition is as follows:

The petitioner's date of birth is 12.01.1959. He joined the services of the 2nd respondent Society and has been working as a Salesman as on date. He will be superannuated on 12.1.2017., ie., the date on which, he has to retire on service. However, the petitioner had sent a representation to the respondents on 15.11.2016 stating that since his date of birth is 12.01.1959 and <https://hsr.serveis.es to a gov Shd serve mst>, which is equivalent to the post of Peon and Attender, who are governed under the Tamil Nadu Basic Services, within the meaning of bylaw 40 of the 2nd respondent Society, as by which, it was stated that the Tamilnadu Government Basic Service Rules would *mutatis mutandis* apply in the case of the workers



working in the Cooperative Societies including the 2nd respondent Society. As per the Tamilnadu Basic Service Rules, retirement age for the basic servants shall be 60. Therefore, since the petitioner is also one among the category of basic servants, he shall be superannuated only on completion of 60 years and therefore, his services should be extended from 12.01.1959 to further two years and thereafter only on completion of 60 years, he will be allowed to retire from service.

4. The learned counsel for the petitioner is heavily relying upon the bylaw 12, wherein, it is stated that in the matter of age of retirement from the service of the Society, the Rules applicable to the Government Service shall be followed, especially under the General Rule 59(1), the age of superannuation/retirement has been specifically given. According to Rule 56(1) proviso to Clause (1), it shall not apply to the Government Servant, who are treated as in basic service for the purpose of the Rules. But as available in the Tamilnadu Basic Service, for the purpose of pension, such Government Servants (basic servant) shall retire on attaining the age of 60 years. Therefore, by relying 56(1) proviso of the Rules as well as Clause 12 of the bylaws, the learned counsel for the petitioner would submit that since the petitioner is a Salesman, which is one of the category of last grade servant, within the meaning of bylaw 40, where under category 6, the post of salesman, attender, driver and peon have been categorised as one category and therefore, the petitioner is entitled to continue service up to the age of 60.

5. Per contra, the learned Special Government Pleader would rely upon bylaw 40, where, the various categories of employees working in the Cooperative Banks/Societies are provided in the said table under the heading "administrative posts. Serial No.6 is salesman, where the required qualification is SSLC completed, whereas, in S.No.8 under the category "sub staff", the posts, such as attender, peon, Packer, watchman and sweeper and gardener have been provided. Therefore, it become abundantly clear that the post of Salesman is excluded from the post of sub staff and therefore, the post of salesman would not cover under the basic service. Moreover, even under the Special Rules for Tamilnadu Basic Service, especially, under Rule 19, the very constitution of the services have been provided, wherein, there were about 86 posts have been enumerated to show that these posts are covered under the Basic Government Services, out of the said 86 posts, the post of Salesman had not been given and therefore, the said Special Rules for Tamil Nadu Basic Services would not be made applicable to the post of Salesman in the Cooperative Sector and therefore, since the petitioner, admittedly, a Salesman working under the 2nd respondent Society cannot claim any shelter under the Special Rules for Tamil Nadu Basic Service for the purpose of calculating the age of superannuation.

6. This Court have considered the rival submissions made by the learned respective counsel for the parties.



7. As has been rightly pointed out by the learned Special Government Pleader, the Rules are very clear. No doubt Clause 12 of the bylaws says that the Rules governing the Tamilnadu Government Servants would be made applicable to the services of the Cooperative Societies. However, the post of Salesman, since has not been included either under the bylaws governing the 2nd respondent Society or under the Special Rules for the Tamilnadu Basic Servants, the plea raised by the petitioner to seek extension of his service up to the age of 60 years for retirement, cannot be countenanced.

8. Since the petitioner, admittedly, getting superannuated on 12.01.2017, there is no further scope for extending the service beyond that date as Salesman, according to the Service Rules as well as the bylaws as the retirement age is only 58 years. Therefore even the plea made by the petitioner through his representation dated 15.11.2016 is not worthy to be considered by the respondents and therefore, this Court is not inclined to entertain this writ petition accordingly, the writ petition is dismissed, as it does not have any merit. However, there is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar[CS II]

/True copy/

Sub Assistant Registrar

To

1 THE JOINT REGISTRAR OF
COOPERATIVE SOCIETIES, COOPERATIVE SOCIETIES
MADURAI

2 THE PRESIDENT
Ayyur Primary Cooperative Bank Ayyur MADURAI DT

+1CC to Mr.R.Rajaraman, Advocate, SR.81543

+1cc to Special Government Pleader, SR.No.81906.

RR

KK/SKN/SAR3/10.01.2017/3P/5C

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