

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.15669 of 2012 and

M.P.No.1 of 2012

C.Veeramani

... Petitioner

Vs

- 1.The Registrar of Cooperative Societies,  
No.170, EVR Periyar Salai,  
Kilpauk, Chennai 600 010.
- 2.The Jt.Registrar of Cooperative Societies,  
Pudukottai Region, Pudukottai.
- 3.The Special Officer,  
MM 334, The PEDC Employees' Cooperative  
Thrift and Credit Society Ltd.,  
Pudukottai-622 001.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the first respondent's order made in Na.Ka.No.82340/2010/VA.Aa.3 dated 14.10.2011, to quash the same and consequently, direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to forthwith pay the outstanding arrears of salary and other attendant service benefits that are due between 01.02.2002 and 01.07.2008. सत्यमेव जयते

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.V.Selvaraj for RR1 and 2  
Mr.L.P.Shanmugasundaram for R3

O R D E R

Heard Mr.L.Chandrakumar, learned counsel for the petitioner. Mr.V.Selvaraj, learned counsel appearing for the first and second respondents and Mr.L.P.Shanmugasundaram, learned counsel appearing for the third respondent.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Certiorari and Mandamus, to call for the records relating to the first respondent's order made in Na.Ka.No.82340/2010/VA.Aa.3 dated 14.10.2011, to quash the same and consequently, direct the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents to forthwith pay the outstanding arrears of salary and other attendant service benefits that are due between 01.02.2002 and 01.07.2008."

3. The case of the petitioner is as follows:-

The petitioner was appointed as Office Assistant in the third respondent Society on 01.02.2002. According to him, he was appointed in terms of the rules and regulations applicable to the said appointment. A proposal was communicated by the third respondent for regularising the service of the petitioner in 2006. On the basis of the proposal and in terms of certain communications of the first and second respondents dated 20.06.2008 and 30.06.2008, the third respondent vide proceedings dated 02.07.2008, regularised the service of the petitioner with effect from 01.02.2002 i.e., date of his initial appointment in the pay scale of Rs.2650-4000. While regularising the service of the petitioner, the monetary effect was restricted only from the issue of the order dated 02.07.2008 and not from 01.02.2002.

4. Since the consequential benefits of regularisation from the effect of his initial appointment was denied, the petitioner approached this Court in W.P.No.14624 of 2011. This Court by order dated 23.06.2011, directed the Authorities concerned to consider the representation of the petitioner, seeking aforesaid relief. However, in consideration of his representation, by proceedings dated 14.10.2011, rejected the representation on the ground that during the relevant time when the petitioner was recruited, there was a ban on recruitment and the service came to be regularised only after lifting of the ban. Therefore, he was not entitled to any consequential benefits, on regularisation. Aggrieved by the above said order dated 14.10.2011, the petitioner is before this Court.

5. Upon notice, learned counsel appearing for the respondents, entered appearance and filed a counter affidavit. The learned counsel for the respondents would submit that as stated in the impugned order of rejection, the petitioner was not entitled to any consequential benefits on regularisation of service, from 01.02.2002, in view of the existence of ban,

during that time. According to him, the reasons said forth in the impugned order are valid and the petitioner is not entitled to the relief as prayed for in the writ petition.

6. The learned counsel for the petitioner, at the outset, would submit that once the respondent Authority thought fit to regularise the service of the petitioner with effect from the date of his original appointment, consequential benefits is a natural corollary to such regularisation and therefore, the same cannot be denied under any circumstances. He would also submit that in similar circumstances, the Hon'ble Division Bench of this Court in W.A.Nos.387 and 392 of 2016 dated 06.04.2016, had confirmed the order passed by the learned Single Judge of this Court as found in paragraph 5, which is reproduced below:-

"5. We have examined the facts from all facets. The issue of regularisation from the backdate is not in dispute. But, no case has been made out by the appellants as to why the respondents herein are not entitled to monetary benefits from the date of regularisation. It was for the appellants State to regularise the services of the respondents herein, depending on several factors. After the respondents herein have been granted regularisation from the backdate, in the normal course, they are entitled to consequential benefits from the date of regularisation, unless some strong case is made out for not conferring the benefits on the respondents from the date of regularisation. Neither in the G.O. nor in the counter affidavit filed before the learned Single Judge, substantial case has been made out by the State appellants to take a contrary view or to deny the benefits of regularisation from the date of regularisation. The learned Single Judge has rightly come to the conclusion that the grant of regularisation from the backdate without ancillary benefits is of no relevance. It is also not stated in the Government Order that the regularisation is granted for other purpose, but it seems to have been granted for all consequential benefits, which include the monetary benefits. There is no infirmity or illegality in the impugned order."

Therefore, the learned counsel would submit that the issue raised in the writ petition squarely covered by the observations of the Hon'ble Division Bench of this Court.

7. This Court has considered the submissions of the learned counsel for the parties and perused the materials and pleadings placed on record. This Court is in agreement with the submission made by the learned counsel for the petitioner that once the respondents have regularised the service of the petitioner with effect from the date of initial appointment i.e., 01.02.2002, there was no justification for denying the consequential financial benefits to the petitioner. It is needless to mention that the act of regularisation cannot be divorced from other consequential benefits and cannot be allowed to stand independently by denying the benefit of consequential rights of the petitioner. Therefore, the petitioner is even otherwise, entitled to consequential benefits on being regularised with effect from the date of his initial appointment, de hors the observations made by the Hon'ble Division Bench in similar circumstances. However, even applying the observations made by the Hon'ble Division Bench, which squarely covered the issue on hand in favour of the petitioner.

8. In the above circumstances, in all fours, the petitioner is entitled to consequential monetary benefits as fall out to the petitioner being regularised with effect from 01.02.2002. However, it is made clear that the petitioner is not entitled to arrears of differential pay and allowance for the period in question. It is also made clear that the respondents shall pass orders by granting all notional benefits admissible to the petitioner from the date of his initial appointment i.e., 01.02.2002. The consequential direction shall be complied with by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

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True Copy

Sub-Assistant Registrar

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To

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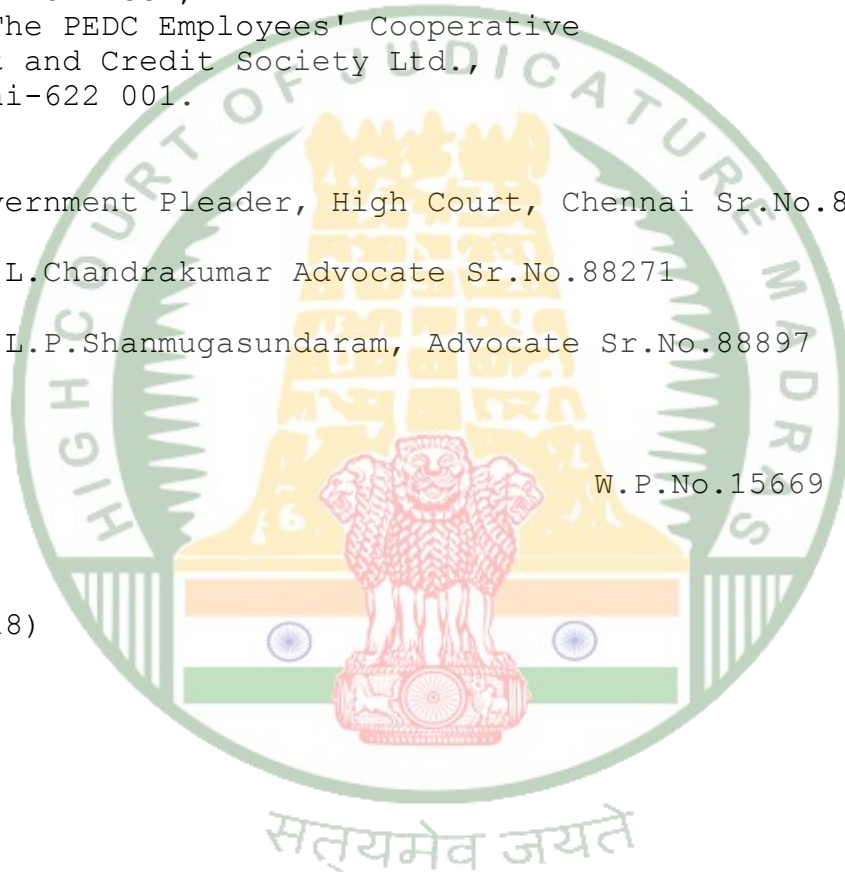
+1 CC to Government Pleader, High Court, Chennai Sr.No.88998

+1 CC to Mr.L.Chandrakumar Advocate Sr.No.88271

+1 CC to Mr.L.P.Shanmugasundaram, Advocate Sr.No.88897

W.P.No.15669 of 2012

PA (CO)  
KP (06/02/2018)



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