

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.07.2017
CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.28017 of 2012,
And W.M.P.No.1 of 2012

N.Balu

... Petitioner

Vs.

1. The Registrar of Co-op. Societies,
N.V.N. Maaligai,
170, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.
 2. The Joint Registrar of Co-op. Societies,
Nagapattinam Region,
Collectorate Building,
Nagapattinam.
 3. The Deputy Registrar of Co-op Societies,
Mayiladuthurai,
 4. The Special Officer,
Mayuram Co-operative Urban Bank Ltd.,
No.993, Mayiladuthurai 609 001.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in Na. Ka.12075/2012 nova3(1) dated 27.03.2012, and quash the same as illegal, arbitrary and against the provisions of the Act and consequently direct the 4th respondent herein to grant the pay and allowances attached to the post of General Manager from 16.12.2002, the day from which the petitioner was holding the post of General Manager (In charge) and consequently regularize the petitioner's services as General manager.

For Petitioner : Mr.S.Sridharan

For Respondents : Mr.L.P.Shanmugasundar for R1 to R3
Mr.M.S.Palanisamy for R4

O R D E R

The petitioner has approached this court seeking the following relief: "to call for the records of the first respondent in Na.Ka.12075/2012 nova3(1) dated 27.03.2012, and quash the same as illegal, arbitrary and against the provisions of the Act and consequently, direct the 4th respondent herein to grant the pay and allowances attached to the post of General Manager from 16.12.2002, the day from which the petitioner was holding the post of General Manager (In charge) and consequently, regularize the petitioner's services as General manager".

2. The case of the petitioner is as follows:

(i) The petitioner was originally appointed as a Typist in the respondent bank on 01.12.1982 and was promoted as Junior Assistant on 01.10.1990 and as Assistant on 01.03.1998 the petitioner had put up 22 years of service in the respondent bank. According to the petitioner, the post of General Manager became vacant after 31.07.2001 and the persons, who are working in the feeder category as Assistant General Manager, Manager, Assistant Manager, Assistant and Office Assistant were not willing to be appointed as General Manager. Therefore, the 4th respondent had appointed the petitioner to work as General Manager (in-charge), in view of the fact that the banks normally come to a stand still, in the absence of somebody acting as General Manager.

(ii) In the said circumstances, an order was passed by the 4th respondent on 12.12.2002 appointing the petitioner as General Manager (in-charge) with effect from 16.12.2002. The case of the petitioner is that though he was acting as in-charge General Manager, he has not been paid the pay and allowances applicable to the post of General Manager all these years. While he represented to the bank, the impugned order came to be issued on 27.06.2012 stating that there was no provision for grant of pay and allowances as admissible to the post of General Manager in view of the fact that the petitioner was not from the feeder cadre so as to be appointed as General Manager (In-charge), as he was admittedly from the lower level of the service viz., as Assistant. Between the General Manager and Assistant, there were several posts and the petitioner cannot therefore claim the pay attached to the post of General Manager as he was only working in a substantive post as Assistant, but made to work as General Manager in-charge.

3. Upon notice Mr.L.P.Shanmugasundaram, learned counsel entered appearance on behalf of respondents 1 to 3 and Mr.M.S.Palaniswamy, learned counsel entered appearance on behalf of the 4th respondent.

4. The learned counsel appearing for Respondents 1 to 3 would submit that whatever allowances which are admissible to the post of General Manager is being paid but the petitioner cannot claim the pay scale as that of the post of General Manager since he was not promoted to the post of General Manager and he was only put on in-charge to act as General Manager. In such view of the matter he would submit that the petitioner is not entitled to the relief prayed for in the writ petition. However, he would also submit that the petitioner has not exhausted his remedy before the Government under Section 153 of the Tamil Nadu Co-operative Societies Act or under Section 90 of the Tamil Nadu Societies Registration Act. The learned counsel appearing for the petitioner would submit that in which event he would seek his remedy before the Government or before the appropriate forum.

5. In the said circumstances, the writ petition is disposed of by giving liberty to the petitioner either to approach the Government under Section 153 of the Tamil Nadu Co-operative Societies Act or to approach the appropriate forum under Section 90 of the Tamil Nadu Societies Registration Act, as he deems fit.

6. In case such an application is made by the petitioner, the same can be considered in accordance with law within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

may

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To

1. The Registrar of Co-op. Societies,
N.V.N. Maaligai,
170, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.

+2 ccs to M/s.S.Sridharan Advocate sr 52978

+1 cc to M/s.Palanisamy Advocate sr 52794

W.P.No.28017 of 2012

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