

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.205 of 2014
and
M.P.No.1 of 2014

1.The Registrar of Co-operative Societies,
No.170, E.V.R.Periyar Road,
Kilpauk, Chennai - 600 010.

2.The Joint Registrar of Co-operative
Societies,
Salem Region, Salem.

... Appellants

versus

S.Lakshmimohan

... Respondent

PRAYER: Appeal filed against the order passed by this Court dated 05.07.2012 made in W.P.No.6859 of 2007. Writ petition filed under Article 226 of the constitution of India praying this court to issue a writ of Mandamus directing the 2nd respondent to grant selection grade to the petitioner in the post of Co-operative Sub-Registrar with effect from 13.3.95 with monetary benefits and arrears.

For Appellants : Mr.L.P.Shanmugasundaram,
Special Government Pleader.
For Respondent : Mr.R.Prem Narayan

J U D G M E N T

(Order of the Court made by R.SUBRAMANIAN,J.)

The appellants challenge the order of the learned Single Judge made in W.P.No.6859 of 2007 [originally filed as O.A.No.2486 of 2002 on the file of the Tamil Nadu Administrative Tribunal] dated 05.07.2012, in an by which, the learned Single Judge directed the 2nd respondent in the Writ Petition/ the 2nd appellant herein to grant Selection Grade to the petitioner with effect from 13.03.1995 in the post of Sub-Registrar of Co-operative Society with all consequential benefits.

The facts that led to the filing of the Writ Petition are as follows:-

2. The respondent herein joined the services of the Co-operative Department of the Government of Tamil Nadu and was promoted as a sub-Registrar in the year 1985. According to the Rules governing the service, the respondent was entitled to be placed in the Selection Grade on completion of ten years of service in a post.

3. The appellants however did not grant Selection Grade to the respondent on 13.03.1995 viz., the date on which he had completed 10 years of service in the post of Sub-Registrar of the Co-operative Societies. Eventually the appellants have recommended grant of Selection Grade to the respondent only from 13.09.2000. Claiming that the denial of Selection Grade from 13.03.1995 on the ground that the Departmental proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules were initiated against the petitioner in the year 1998 and a punishment of stoppage of increment without cumulative effect was imposed on him in the year 2000 is not justified, the petitioner had sought for the relief of issuance of Writ of Mandamus directing the 2nd respondent to grant Selection Grade to the petitioner with effect from 13.03.1995 along with monetary benefits and arrears.

4. The said Writ petition was resisted by the appellants contending that since disciplinary proceedings were initiated and a punishment was imposed the case of the respondent could be considered for grant of Selection Grade only after the expiry of punishment period.

5. The learned Single Judge who heard the Writ Petition rejected the contentions of the respondents and concluded that a subsequent initiation of disciplinary proceedings cannot be a ground for denial of Selection Grade particularly when the respondent have completed 10 years of service in the post of sub-Registrar of Co-operative Society even as on 13.03.1995. Upon the said conclusion, the learned Singel Judge allowed the Writ Petition as prayed for. Aggrieved the appellants are before us by way of this intra-Court appeal.

6. We have heard Mr.L.P.Shanmugasundaram, learned Special Government Pleader of the appellants and Mr.R.Prem Narayan, learned counsel for the respondent.

7. The fact that the respondent was promoted as a sub-Registrar Co-operative Societies in the year 1985 and that he is eligible for Selection Grade in the post of sub-Registrar of co-operative Society with effect from 13.03.1995 is not denied by the appellants. The sole ground on which the appellants seek to deny the benefit of Selection Grade to the respondent is that the proceedings were initiated by way of issuance of a charge

memo on 02.04.1998 for certain delinquencies against the respondent and final punishment of stoppage of increment for one year without cumulative effect was imposed on the respondent. Relying upon the above said domestic enquiry and the punishment imposed, the appellants would contend that the respondent is not entitled to be conferred with Selection Grade as claimed by him even from 13.03.1995.

8. We are unable to appreciate the submissions of the learned counsel for the appellants. The Rules relating to conferment of Selection Grade and Special Grade are very clear and an employee is entitled to be conferred in Selection Grade in the post if he or she has completed 10 years of unblemished service in the said post. A perusal of the records would show that the respondent had completed 10 years of unblemished service even as early as on 13.03.1995 in the post of Sub-Registrar of Co-operative Society. The subsequent charge memo issued on 02.04.1998 nearly three years after the completion of 10 years service cannot in any manner whittle down the right of the respondent to be conferred Selection Grade.

9. The learned Single Judge had rightly pointed out that in the absence of any proceeding prior to 13.03.1995, the appellants were not justified in postponing the conferment of Selection Grade on the respondent and thereafter claim that in view of the subsequent charge memo issued, the respondent is not entitled to the benefit of Selection Grade.

10. We are therefore, in entire agreement with the view of the learned Single Judge and we see no reason to interfere with the order of the learned Single Judge. Hence, the Writ Appeal fails and the same is dismissed, however, without costs. Consequently, the connected Miscellaneous Petition is also closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar

dsa

+ 1 cc to Mr.R. Prem Narayan, Advocate Sr.44860

+ 1 cc to Mr. the Government Pleader Sr.45359

W.A.No.205 of 2014

CNR(CO)
EU(10/08/2018)