

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2018

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.A.No.1929 of 2010
and M.P No.1 of 2010

The Management/Special Officer,
K.K.349, Dharmapuri District Central
Co-operative Bank Ltd.,
Dharmapuri. ... Appellant/3rd Respondent

Vs.

1.M.Govindan
S/o Madhappa Gowdu,
No.173/3, Kalapampadi,
Perumpali Via, Pennagaram Taluk.1st Respondent/Petitioner

2.The State of Tamil Nadu,
Represented by its Secretary
to the Government,
Co-operation, Food and Consumer
Protection Department,
Fort St. George, Chennai-600 010.

3.The Tamil Nadu Co-operative Societies,
Rep. by its Additional Registrar
(Sale and Development),
No.170, Periyar EVR Road,
Kilpauk, Chennai-600 010. Respondents 1 & 2/
Respondents 1 & 2

Prayer:Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 15.06.2010 made in W.P.No.7435 of 2009.

Prayer in WP.No.7435/2009:This Writ petition has been preferred under Article 226 of constitution of India, praying for the issue of a writ of certiorarified mandamus calling for the records relating to the proceedings made in Na.Ka. 150369/2008 Sa.Pa. 1 dated 23.02.2009 passed by the 2nd respondent and quash the same and consequently direct teh respondnets to pay a sum of Rs. 3 63 546/- with interest at the rate of 12%

p.a. to the petitioner from the date of eligibility to the date of actual payment.

For Appellant : Mr.M.S.Palaniswamy

For Respondents : Mr.G.Ethirajulu fpr R1
Mr.L.P.Shanmughasundaram,
Special Govt. Pleader for R2&R3

JUDGMENT

(Judgment of the Court was made by M.M.SUNDRESH,J.)

The appellant is the respondent in the writ petition. The writ petition was filed by the first respondent herein/writ petitioner inter alia contending that the services rendered by him in the Primary Agricultural Co-operative Society prior to the subsequent appointment with the appellant with effect from 01.01.1995 should also be reckoned for the benefit conferred under G.O.Ms.No.144 Co-operation Food and Consumer Protection Department, dated 06.07.2000. The learned single Judge accepting the contention, accordingly allowed the writ petition. Challenging the same, the present writ appeal has been filed.

2. The learned counsel appearing for the appellant would submit that the appointment of the first respondent for the post of Junior Assistant is a fresh one as seen from the appointment order dated 21.08.1995. This position is well known to the first respondent as seen from the undertaking given on 01.09.1995. Therefore, there is no difficulty in reckoning the services rendered from 01.01.1995 to 31.08.2007 as Junior Assistant as per G.O.Ms.No.144 Co-operation Food and Consumer Protection Department, dated 06.07.2000. The same cannot be extended to the service rendered in the Primary Agriculture Co-operatives Bank Limited as the Secretary, which is a different capacity. It is further submitted that the said Government Order is very specific, which is to help such of those employees, who were getting stagnated in a particular post without having any chance of promotion for a period of 12 years.

3. The learned counsel appearing for the respondents 2 and 3 would submit that inasmuch as the first respondent was factually working in the Primary Agricultural Co-operative Bank earlier, there is no interference is required.

4. The facts as narrated by the learned counsel appearing for the appellant are not disputed or denied. This is with respect to the appointment order dated 21.08.1995 and

undertaking given by the first respondent dated 01.09.1995. Clause 12 of the appointment order makes it clear that the appointment as Junior Assistant was a new one and the services would be accounted only from that date i.e., from the date of joining in the said post alone. This has been reiterated by the subsequent proceedings dated 01.09.1995 under Clause 12. This proceeding was signed by the first respondent stating that he was abide by it. Thus, he specifically accepted Clause 12 of the proceedings dated 01.09.1995, by which it has been stated that the services would be accounted from the date of joining as Junior Assistant.

5. On a perusal of the Government Order in G.O.Ms.No.144 Co-operation Food and Consumer Protection Department, dated 06.07.2000, it is very clear that it merely deals with a particular post. The said Government Order meant to give benefit to an employee, who languishes without any chance of promotion over a period of 12 years. Therefore, looking from any perspective, the first respondent cannot have any benefit for the services rendered by him in a different post in Primary Agricultural Co-operative Bank prior to 01.01.1995. However, the same cannot dis-entitle him the benefit for the service rendered as Junior Assistant from 01.01.1995. In such view of the matter, the order passed by the learned single Judge is set aside in part making it clear that the first respondent is entitled for the benefit of the G.O.Ms.No.144 Co-operation Food and Consumer Protection Department, dated 06.07.2000, for the services rendered as Junior Assistant from 01.01.1995 to 31.08.2007. The appellant is directed to pay the monetary benefit in terms of the Government Order referred to above within a period of eight weeks from the date of receipt of a copy of this order.

6. the writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition stand closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

raa

To

1.The Secretary to the Government,
State of Tamil Nadu,
Co-operation, Food and Consumer
Protection Department,
Fort St. George, Chennai-600 010.

2.The Additional Registrar, (Sale and Development),
Tamil Nadu Co-operative Societies,
No.170, Periyar EVR Road,
Kilpauk, Chennai-600 010.

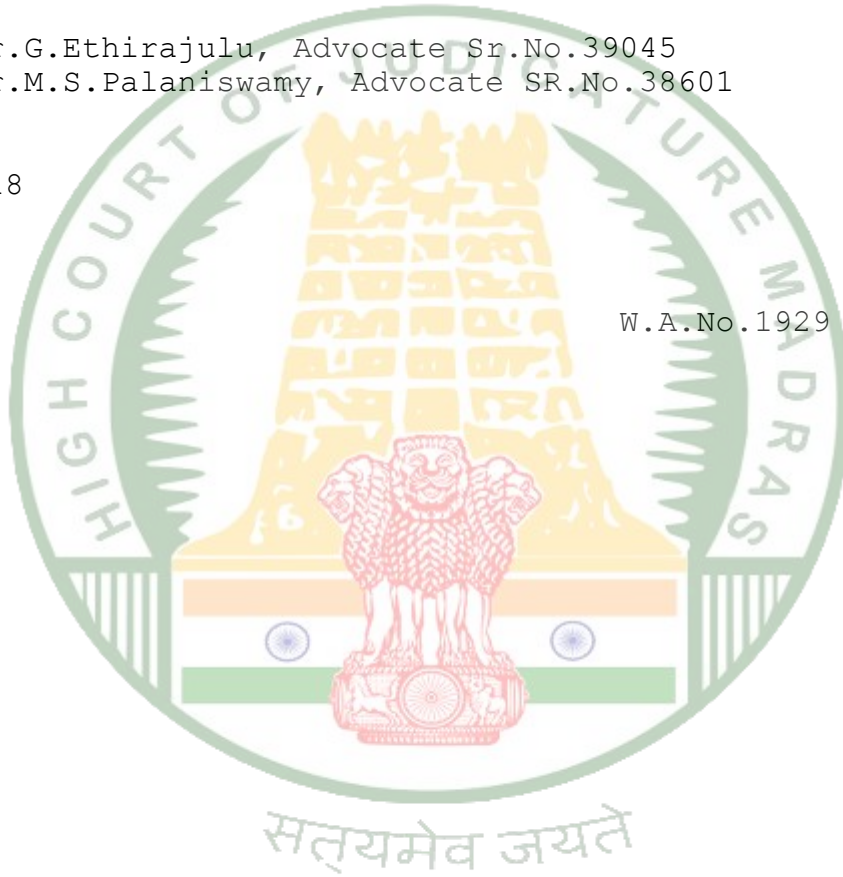
+1cc to Mr.G.Ethirajulu, Advocate Sr.No.39045

+1cc to Mr.M.S.Palaniswamy, Advocate SR.No.38601

MR(CO)

sm:4.7.2018

W.A.No.1929 of 2010



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