

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.24971 of 2018

S.Subramani

... Petitioner

Vs

1.The Deputy Registrar of Co-operative Societies
Sangagiri Circle, Sangagiri, Salem District.

2.The President
S.518, A.Kullampatty Primary Agricultural
A.Kullampatty Post, Edapadi Via Salem District.
.... Respondents

For Petitioner : M/s.M.S.Palaniswamy

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Co-op)

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records of the order passed in Na.Ka.700/2017 Ve.Se.Sa dated 31.08.2018 on the file of the first respondent and consequential order of cancellation of promotion passed by the second respondent dated 17.09.2018 quash the same.

O R D E R

The petitioner was appointed as Godown Keeper on 01.01.1984 by the second respondent. He had more than 34 years of service in the society and he became Senior Clerk on 28.04.1998. After having put in 16 years of service, the petitioner was promoted as Secretary-in-Charge on 01.05.2013. When the post of Secretary became vacant, he was promoted as Secretary on 19.02.2018. The board of the second respondent society, after considering the petitioner's merit, ability, seniority and blemishless service, passed a resolution dated 19.02.2018, promoting the petitioner as the Secretary of the society.

2. While so, the first respondent, by a letter dated 31.02.2018, has given a direction to the second respondent to cancel the promotion of the petitioner as Secretary and

thereafter, the second respondent has passed an order on 17.09.2018, cancelling the promotion of the petitioner as Secretary. Both the orders are under challenge.

3. Learned counsel for the petitioner would submit that the order of the first respondent is malafide and it is against the principles of natural justice, as the petitioner was not given any opportunity. Learned counsel further contends that the first respondent has no jurisdiction or authority to interfere with the service conditions of the employees of the second respondent society. The second respondent also has passed an order, without giving an opportunity of hearing to the petitioner and therefore, the order passed by the second respondent is liable to be quashed.

4. Learned counsel for the respondents would submit that based on the circumstances, necessity and following the principles only the orders have been passed and therefore, those orders cannot be interfered with.

5. A perusal of the order dated 17.09.2018 would go to show that it is a non speaking order, simply stating that based on the orders of the first respondent, promotion given to the petitioner stands cancelled. It does not indicate that the order has been passed notice to the petitioner or by giving reasons. The order of promotion cannot be modified or cancelled without giving any opportunity of hearing to the affected petitioner. Therefore, it is clear that the order is liable to be set aside. Therefore, the orders dated 31.08.2018 and 17.09.2018 are liable to be set aside and it is accordingly set aside. It is open to the respondents to follow the procedure and to pass further orders in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

KST

To

1.The Deputy Registrar of Co-operative Societies
Sangagiri Circle, Sangagiri, Salem District.

2.The President

S.518, A.Kullampatty Primary Agricultural
A.Kullampatty Post, Edapadi Via Salem District.

+1cc to Mr.M.S.Palanisamy, Advocate SR.No.80325

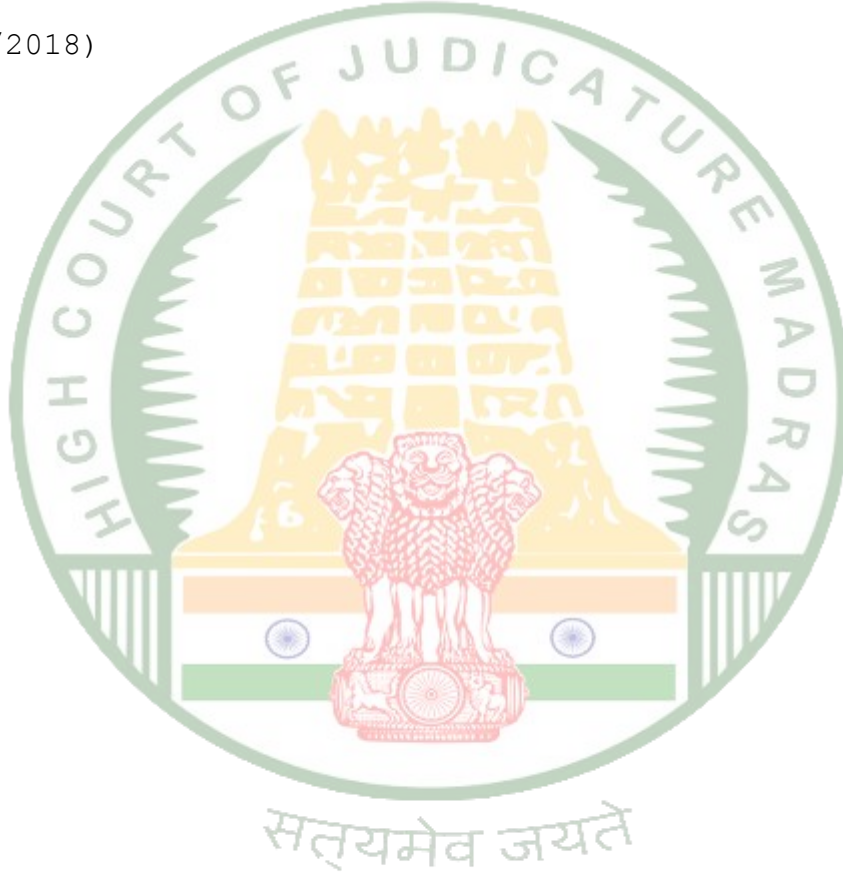
+1cc to M/s.L.P.Shanmugasundaram, Advocate SR.No.79785

+1cc to Government Pleader SR.No.80490

W.P.No.24971 of 2018

AD(CO)

GMV (14/12/2018)



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