

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.02.2018
CORAM
THE HONOURABLE Mr.JUSTICE V.PARTHIBAN
W.P.No.22967 of 2012

1.K.Babu
2.R.Subha
3.V.Abhimannan
4.S.krishnamurthy
5.P.Sivakumar
6.T.Saravanan
7.D.Senthamarai
8.P.Sivakumar
9.G.Vijayakumar
10.A.Kesavan
11.N.Chandrasekaran
12.M.Manimaran

.... Petitioners

Vs

1.The Registrar of Cooperative Societies,
170, EVR Periyar Road, Kilpauk,
Chennai-10.
2.The Joint Registrar of Cooperative Societies,
South Street, Ganapathi Nagar,
Tanjore.

... 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 first respondent's proceedings made in Na.Ka.13839/2012/Va.Aa.1 dated 15.05.2012, to quash the same and consequently, direct the respondents to extent the benefit of selection Grade/Special Grade and other benefits to the petitioners on and after completion of 10/20 years of services from the date of their initial appointment/regularization and to disburse the accrued arrears thereto forthwith.

For Petitioners : Mr.L.Chandrakumar
For Respondents : Ms.T.Girija,
Government Advocate

O R D E R

Heard Mr.L.Chandrakumar, learned counsel for the petitioners and Ms.T.Girija, learned Government Advocate appearing for the respondents.

2. The petitioners have approached this Court, seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records relating to first respondent's proceedings made in Na.Ka.13839/2012/Va.Aa.1 dated 15.05.2012, to quash the same and consequently, direct the respondents to extent the benefit of selection Grade/Special Grade and other benefits to the petitioners on and after completion of 10/20 years of services from the date of their initial appointment/regularization and to disburse the accrued arrears thereto forthwith."

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

The petitioners were all initially appointed in various societies on temporary basis. On completion of certain number of years of service, the Government issued G.O.Ms.No.86, Cooperation, Food and Consumer protection dated 12.03.2001, regularising the services of all the petitioners with effect from the same date i.e., on 12.03.2001. However, by subsequent action by the Government, the monetary benefits was to be made effective only from 01.09.2007. The claim of the petitioners herein that the Selection and the Special Grades have not been granted from the date of the regularization of the petitioners i.e., from 12.03.2001. But, the date as reckoned by the Government is the year 2007 and not from the date of their original regularization in 2001.

4. In the above circumstances, a representation has been submitted by the petitioners requesting for grant of Selection Grade on completion of 10 years by taking into account the date of regularization i.e., 12.03.2001 and grant of Special Grade on completion of 20 years of service from 2001. However, without properly appreciating the claim of the petitioners, the first respondent issued an order on 15.05.2012, rejecting the claim of the petitioners by stating that they were entitled to count their 10 years of service for Selection Grade only from 01.09.2007 and thereafter, 20 years will be counted for the Special Grade. The said proceedings of the first respondent is put to challenge in the present writ petition.

5. The learned counsel for the petitioners would strenuously contend that the impugned rejection order cannot be countenanced both in law and on facts for the simple reason that the Government itself has passed an order in G.O.Ms.86, Cooperation, Food and Consumer protection, dated 12.03.2001, by regularising the service of all the petitioners. That being the case, the question of reckoning different date i.e., from 01.09.2007, for the purpose of grant of Selection and Special Grade as the case may be, cannot stand the test of judicial scrutiny and the same is also without any justification.

6. According to the learned counsel for the petitioners, the scheme of grant of Selection and Special Grades will always be reckoned from the date of regular service of the employees. In the instant case, admittedly the date of regularization of all the petitioners is 12.03.2001, in which event, it is not open to the authority to reckon the date as 01.09.2007, for the purpose of grant of Selection and Special Grades. It is needless to mention that only in respect of the monetary benefits, the restriction was imposed by holding that the petitioners were entitled to monetary benefits only from 01.09.2007 and the said restriction cannot hold good for other purpose, particularly, grant of Selection and Special Grades, otherwise the grant of regularization from 12.03.2001, has no meaning and legal significance.

7. Upon notice, learned Government Advocate appearing for the respondents has entered appearance and filed a detailed counter affidavit.

8. The learned counsel appearing for the respondents would submit that the claim of the petitioner is without any justification, since they were originally working in the post which was not sanctioned. Therefore, the respondents are taking into consideration the year of reckoning as 01.09.2007 and not earlier.

9. Such argument advanced by the learned counsel appearing for the respondents is preposterous for the simple reason that admittedly these petitioners' services were regularized with effect from 12.03.2001 and they were informed that they would not be entitled to monetary benefits till 31.08.2007. Such restriction is only in respect of arrears of monetary benefits and the same cannot result in postponement of Selection and the Special Grades.

10. This Court has considered the rival submissions of the learned counsel appearing for the parties and perused the pleadings and materials placed on record. There is considerable force in the contention put forth by the learned counsel for the petitioner that once the date of regularization has been fixed as 12.03.2001, the same will have to be the basis for reckoning the period of 10 years and 20 years as the case may be for grant of Selection and Special Grades. Under no circumstances, the date of regularization can be altered for the purpose of denying Selection and Special Grades to the petitioners herein.

11. As rightly contended by the learned counsel for the petitioners that the date 01.09.2007, is only for the purpose of grant of monetary benefits to the petitioners on their being brought on regular time scale from 12.03.2001 and such date can never be the basis for counting the period of service for the

grant of Selection and Special Grades. Such interpretation would render the action of regularization of the petitioners by G.O.Ms.No.86, Cooperation, Food and Consumer protection, dated 12.03.2001, meaningless.

12. The scheme of grant of Selection and Special Grades will be well served only if the period of qualifying service is reckoned from the date of regularization, otherwise, the same will only give rise to administrative interference by fixing arbitrary dates for counting the service from the date other than the date of regularization. Such discretion cannot be made available to the authorities concerned, as that would take away the legitimate right of the petitioners to have their service counted from the date of regularization of their services. Such action on the part of the respondents in fixing future date for the purpose of qualifying service for grant of Selection and Special Grades is a violative of principle of legitimate expectation and such action on the part of the respondents does not advance the cause of good administration and fair play.

13. For the above said reasons, this Court has no hesitation in allowing the writ petition. Therefore, the impugned proceedings made in Na.Ka.13839/2012/Va.Aa.1 dated 15.05.2012, is hereby quashed and the respondents are directed to grant Selection and Special Grades to the petitioners by reckoning the date of qualifying service from 12.03.2001, with all consequential and attendant benefits on such action. The direction of this Court shall be complied with by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above direction, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Registrar of Cooperative Societies,
170, EVR Periyar Road, Kilpauk,
Chennai-10.

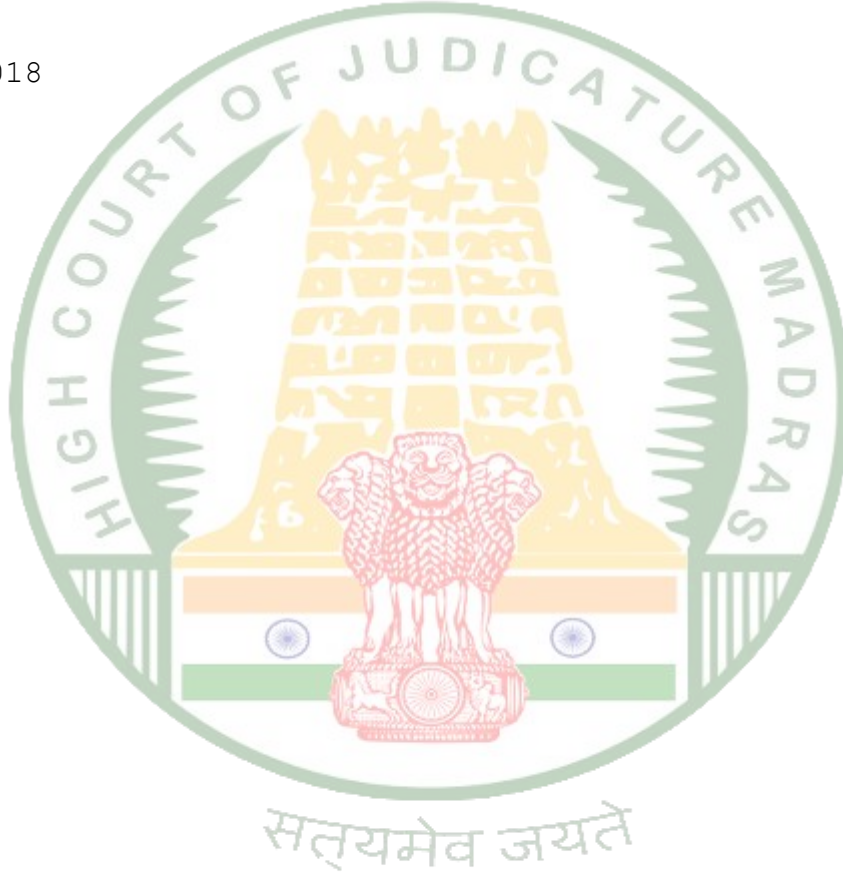
2.The Joint Registrar of Cooperative Societies,
South Street, Ganapathi Nagar,
Tanjore.

+1 cc to Govt Pleader sr 11034

+1 cc to M/s.L.Chandrakumar Advocate sr 10340

W.P.No.22967 of 2012

kan(co)
aa21/02/2018



WEB COPY