



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2018

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.11903 to 11907 of 2014  
and  
M.P. (MD) Nos.1,1,1,1,1,2,2,2,2,2 of 2014

|                      |                                              |
|----------------------|----------------------------------------------|
| K.Abubakkar Chittick | ... Petitioner in W.P. (MD) No.11903 of 2014 |
| P.Bobby              | ... Petitioner in W.P. (MD) No.11904 of 2014 |
| M.Muthumani          | ... Petitioner in W.P. (MD) No.11905 of 2014 |
| K.Pandy              | ... Petitioner in W.P. (MD) No.11906 of 2014 |
| A.Muthukumar         | ... Petitioner in W.P. (MD) No.11907 of 2014 |

vs.

1.The Registrar of Cooperative Societies,  
N.V.Natarajan Maligai,  
170, E.V.R.Periyar High Road,  
Kilpauk, Chennai - 10.

2.The Deputy Registrar of Co-operative Societies,  
Usilampatti Circle,  
Thirumangalam,  
Madurai District.

3.No.29, Thirumangala Co-operative Urban Bank Ltd.,  
Door No.35, Veeran Street,  
Thirumangalam, Madurai District,  
represented by the President. ... Respondents in all cases

PRAYER in W.P. (MD) No.11903 of 2014: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent dated 05.06.2014 in Na.Ka.No.2450/13/Ni.Va and quash the same and consequently direct the respondents to confirm the petitioner's appointment in the post of Junior Assistant in the 3rd Respondent Bank with effect from 11.08.2000 and pay all attendant, monetary and consequent benefits including arrears of salary.

PRAYER in W.P. (MD) No.11904 of 2014: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent dated 05.06.2014 in Na.Ka.No.2450/13/Ni.Va and quash the same and consequently direct the respondents to confirm the petitioner's appointment in the post



of Junior Assistant in the 3rd Respondent Bank with effect from 11.08.2000 and pay all attendant, monetary and consequent benefits including arrears of salary.

PRAYER in W.P.(MD)No.11905 of 2014: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent dated 05.06.2014 in Na.Ka.No.2450/13/Ni.Va and quash the same and consequently direct the respondents to confirm the petitioner's appointment in the post of Junior Assistant in the 3rd Respondent Bank with effect from 16.08.2000 and pay all attendant, monetary and consequent benefits including arrears of salary.

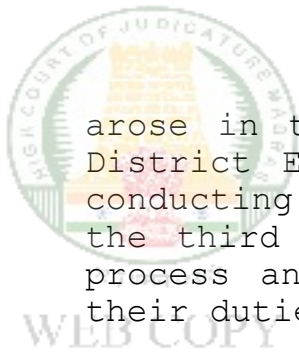
PRAYER in W.P.(MD)No.11906 of 2014: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent dated 05.06.2014 in Na.Ka.No.2450/13/Ni.Va and quash the same and consequently direct the respondents to confirm the petitioner's appointment in the post of Junior Assistant in the 3rd Respondent Bank with effect from 11.08.2000 and pay all attendant, monetary and consequent benefits including arrears of salary.

PRAYER in W.P.(MD)No.11907 of 2014: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent dated 05.06.2014 in Na.Ka.No.2450/13/Ni.Va and quash the same and consequently direct the respondents to confirm the petitioner's appointment in the post of Office Assistant in the 3rd Respondent Bank with effect from 21.08.2000 and pay all attendant, monetary and consequent benefits including arrears of salary.

For Petitioners : Mr.N.Dilip Kumar  
For Respondents : Mr.M.Jeyakumar,  
Additional Government Pleader  
for R.1 & R.2  
Mr.N.Manoharan for R.3  
(In all petitions)

#### COMMON ORDER

The petitioners in W.P.(MD)Nos.11903 to 11906 of 2014 were appointed as Junior Assistants (now designated as Assistants in the third respondent Bank). The petitioner in W.P.(MD)No.11907 of 2014 was appointed as Sub-Staff. All these appointments were made in August 2000. The third respondent is a registered co-operative Bank. That was started way back in the year 1906 and it is classified as "A" Class by the Reserve Bank of India and is operating with profit. The third respondent has sanctioned staff strength of 21. This includes 13 in the cadre of Assistants and 4 Sub-Staff. Vacancies



arose in the sanctioned posts. The third respondent requested the District Employment Exchange to sponsor names for the purpose of conducting interview. The petitioners were invited for interview by the third respondent. They were found successful in the selection process and therefore, were appointed. They have been discharging their duties since their appointment.

2. While so, on 29.07.2013, the Board of the third respondent Bank passed a resolution for regularizing the petitioners' services. Based on the Board's resolution, the petitioners' services were regularized on 06.08.2013. Thereupon, the second respondent, on 13.10.2013, directed the third respondent to cancel the orders of regularization. The second respondent has also passed another order on 08.11.2013 stating that the appointments were made without constituting a proper selection panel.

3. Aggrieved by the same, the petitioners filed W.P.(MD) Nos.18395 to 18399 of 2013 before this Court. By a common order dated 10.02.2014, the writ petitions were disposed of and the orders passed by the second respondent on 13.10.2013 and 08.11.2013 were set aside. The writ petitions filed by the petitioners were allowed because the second respondent herein had taken action without affording opportunity to the petitioners herein. The orders of the second respondent were set aside on the ground of violation of principles of natural justice and the matter was remitted back to the file of the second respondent to proceed afresh.

4. The second respondent, thereafter, issued notice dated 29.04.2014, calling upon the petitioners to offer their explanations as to why the orders of regularization should not be set aside. The petitioners offered their explanation on 21.05.2014. Thereafter, the impugned order dated 05.06.2014 came to be passed, once again cancelling the orders of regularization. This order is under challenge in these writ petitions.

5. Heard the learned Counsel on either side.

6. The only reason set out in the impugned order is that the appointments of the petitioners were not made by a validly constituted selection panel. As per G.O.(D)No.112, Co-operative, Food and Consumer Protection Department, dated 21.05.1998 and the letter dated 22.05.1998 issued by the Registrar of Co-operative Societies, the selection board must comprise the President of the Bank, the Regional Deputy Registrar and the Managing Director of the Co-operative Bank. Only such a committee should select the candidates for appointment. In the present case, the petitioners were selected by a committee, which comprised the President, Secretary and Directors of the Co-operative Bank. It is, on this basis, the impugned order dated 05.06.2014 came to be passed.

7. This Court is of the view that the order impugned in this writ petitions will have to be set aside. It is not in dispute that



the petitioners possess the requisite qualifications. They were appointed in sanctioned vacancies. They were sponsored by the District Employment Exchange. Communal roaster was also followed. The appointees cannot be characterized as back door entrants. The third respondent had issued paper notification and candidates were sponsored in the prescribed ratio. The selection process was also not arbitrary. There was a committee comprising the President, Secretary and Directors of the Bank. Merely because the official of the Co-operative Department, namely, the Deputy Registrar, was not at the panel, the appointments of the petitioners cannot be nullified after several years.

8. A mere look at the sequence of events would show that while the appointments were made in August 2000, the orders to the prejudice of the petitioners were passed only in October / November 2013. During the intervening period, more than 13 years have passed. This Court is, therefore, of the view that it would be most unjust and unfair to show the doors to the petitioners at this distant point of time. It is pertinent to mention here that the second respondent chose to step-in only when the services of the petitioners were regularized.

9. This Court is of the view that the petitioners are entitled to be regularized for the reason that they have put in more than ten years of service and they were appointed only in sanctioned posts and that too, without the benefit of the protection of the interim order and they also possess the minimum qualifications stipulated for the appointment. The petitioners got appointed only after they took part in an open competitive selection. Their appointment could not be said to be illegal by any stretch of imagination. There was a tinge of irregularity, because the selection committee did not comprise an official from the co-operative Department. Beyond this, the appointment cannot be said to be illegal. In any event, in view of the long years of service put in by the petitioners and the factors already set out above, this Court is of the view that the impugned order deserves to be quashed and the same is accordingly quashed.

10. The petitioners would be entitled to the benefit of regularization conferred on them on 06.08.2013 based on the Board's resolution dated 29.07.2013. The petitioners would be entitled to all other consequential benefits on that basis.

11. In result, these writ petitions are allowed in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1.The Registrar of Cooperative Societies,  
N.V.Natarajan Maligai,  
170, E.V.R.Periyar High Road,  
Kilpauk, Chennai - 10.

2.The Deputy Registrar of Co-operative Societies,  
Usilampatti Circle,  
Thirumangalam,  
Madurai District.

+1cc to Special Government Pleader, SR.No. 47445

+5cc to M/S.N.Dilip Kumar, Advocate SR.No. 47344 to 47348

W.P.(MD) Nos.11903 to 11907 of 2014  
08.02.2018

gk

JM/JC/SAR 1/08.06.2018/5P/9C