

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.17529 of 2015

S.Sivakumar, S/o G.Sampath
Junior Inspector,
Deputy Registrar (PDS),
Co-operative Societies Department Campus,
Collectorate, Dharmapuri.

...Petitioner

Vs.

1. Secretary to the Government of Tamil Nadu,
Department of Co-operative Societies,
Secretariat,
Chennai - 600009.
2. Joint Registrar,
Co-operative Societies,
Dharmapuri.
3. Deputy Registrar,
Co-operative Societies,
Dharmapuri.
4. Registrar,
Co-operative Societies,
Chennai - 600010.
5. District Collector, सत्यमेव जयते
Office of the Collector,
Dharmapuri District.
6. Revenue Divisional Officer,
Dharmapuri District.
7. District Revenue Officer,
Dharmapuri.
8. Tahsildar,
Palakodu,
Dharmapuri District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent, pertaining to his letter dated 13.05.2015 Na.Ka.1379/2015 Pa. tho and to quash the same and consequently directing the 2nd respondent to relieve the petitioner from the post of Junior Inspector, Office of the Deputy Registrar, Co-operative Society Campus, District Collectorate, Dharmapuri and for the petitioner to be absorbed in the office of the 6th respondent to the post of Village Administrative Officer, Palakodu Block, Marandaalli sub-block, Kummanur Village, Dharmapuri District, {Na.Ka.8907/2014/A1 dated 03.02.2015}.

For Petitioner : Mr.K.V.Subramaniam
Senior Counsel
for Mr.T.Dhanasekaran

For Respondents: Ms.T.Girija
Government Advocate for R1 to 4
Mr.S.N.Parthasarathy
Government Advocate for R5 to 8

O R D E R

The petitioner is aggrieved against the order of the second respondent dated 13.05.2015, wherein and whereby, his request for reverting him back to the parent department was rejected. Consequently, the petitioner seeks for the direction to the second respondent to relieve the petitioner from the the post of Junior Inspector at the office of the the Deputy Registrar, Co-operative Society Campus, District Collectorate, Dharmapuri and to post the petitioner as Village Administrative Officer at the office of the sixth respondent.

2. The case of the petitioner in short is as follows:-

The petitioner was appointed as Village Administrative Officer at M.Veallampatti Village, Dharmapuri District on 22.02.2013. Thereafter, he cleared TNPSC CSSE-II exams and consequently, was recruited as Junior Inspector Co-operative Societies, Salem. After getting himself relieved from the post of Village Administrative Officer on 30.09.2013., the petitioner joined the duty as Junior Inspector on 01.10.2013. Due to change in family circumstances, the petitioner wanted to come back to his previous post as Village Administrative Officer. Therefore, he sent a request letter dated 22.01.2014, in accordance with Rule 9(B) of the General Rules for Tamil Nadu State and Subordinate Services. Since the request was rejected through the impugned order, the present writ petition is filed.

3. A counter affidavit is filed by the second respondent wherein, it is stated as follows:-

The petitioner joined duty as Village Administrative Officer on 22.02.2013. While continuing in the service, he passed the Combined Subordinate Services Examination-II conducted by the TNPSC and got selected for the post of Junior Inspector of Co-operative Societies. He was relieved from the post on 30.09.2013. He then joined duty as Junior Inspector on Co-operative Societies on 01.10.2013. He executed a bond that after completion of training period, he would serve the department for not less than 5 years. The petitioner conveyed his willingness through the letter dated 22.01.2014, to join as Village Administrative Officer in his parent department under Rule 9B of the said Rules. The Deputy Registrar, Co-operative Society after considering his request forwarded the request to the Joint Registrar of Co-operative Societies on 07.02.2014. The Joint Registrar forwarded the same to the Registrar of Co-operative Societies on 20.03.2014. The Registrar of Co-operative Societies, after considering the request forwarded the application to the District Collector for concurrence on 04.06.2014. The concurrence along with place of postings was given back to the Registrar of Co-operative Societies in letter dated 23.12.2014 and 14.01.2015 and that the said order were received only after the completion of lien period of one year. Hence, the petitioner's request was not in compliance of Rule 9B of the said rules and thus, the same was rejected.

4. Heard Mr.K.V.Subramaniam, learned Senior Counsel for Mr.T.Dhanasekaran appearing for the petitioner, Ms.T.Girija, learned Government Advocate appearing for the respondents 1 to 4 R1 to 4 and Mr.S.N.Parthasarathy, learned Government Advocate appearing for the respondents 5 to 8.

5. There is no dispute to the fact that the petitioner was originally appointed as Village Administrative Officer on 22.02.2013 and while in service, he wrote the Combined Subordinate Services Examination-II conducted by the TNPSC and got selected to the post of Junior Inspector of Co-operative Societies. It is an admitted fact that the petitioner was relieved on 30.09.2013 and joined the duty as Junior Inspector on 01.10.2013. It is also an admitted fact that the petitioner made an application under Rule 9B of the said Rules on 22.01.2014, expressing his willingness to revert back to his parent department to work as Village Administrative Officer.

6. Rule 9B of the Tamil Nadu State and Subordinate Services Rules reads as follows:-

9-B. A member of a service, whenever selected by direct recruitment for appointment in any other service of this Government or in other State Governments, Central Government, Universities, or any other quasi-Government organizations, shall hold the service right in the former service for a period of not exceeding one year only from the date of relief from the former service:

Provided that persons appointed to the services of other State Governments, Central Government, Public Sector Undertakings, or Local Bodies, Corporations, Universities or any other quasi-Governmental Organizations, shall hold such service right in their former services only if the pay, leave salary and pension contributions for the said period of one year are paid by such other State Governments, Central Government, Public Sector Undertakings, Local Bodies, Corporations, Universities or any other quasi-Governmental organizations or by the individual concerned.

7. Perusal of the above said Rule would show that the member in service, if selected by direct recruitment for appointment in any other service of the State Government or in other State Governments, Central Government, Universities, or any other quasi-Government organizations, shall hold the service right in the former service for a period of not exceeding one year only, from the date of relief from the former service.

8. Therefore, it is evident that the petitioner, who admittedly got relieved from the former service as Village Administrative Officer on 30.09.2013, was holding such service right in the former service till 29.09.2013.

9. When such being the factual position and when the petitioner has admittedly conveyed his willingness to revert him back to his parent department through his letter dated 22.01.2014, this Court is of the view that the said request was made by the petitioner well within the time of the lien period and therefore, the said request cannot be rejected by the second respondent, as if the same was made beyond the lien period.

10. In the counter affidavit, it is admitted by the respondents that the petitioner made such request on 22.01.2014 and it is also forwarded to the respective officials for getting their concurrence. It is also seen from the counter that such concurrence along with place of postings was also received by the second respondent on 23.12.2014 and 14.01.2015 respectively. Merely, because there was some delay in granting such concurrence and place of postings and that they were given after lien period, it cannot be said that the very request of the petitioner itself was made beyond the lien period. What is to be noted as relevant factor, is the date of application under Rule 9B and not the date of its consideration. If the application is made within the lien period, the delay, if any, in considering such application, cannot be put against the applicant to reject his request for reverting him back to the parent department as contemplated under Rule 9B of the said Rules.

11. In view of the above, I find that the reasons stated by the second respondent for rejecting the request of the petitioner made under Rule 9B of the said Rules cannot be sustained. Consequently, this writ petition is allowed and the impugned order is set aside. The respondents are directed to consider the request of the petitioner to get back to his parent department as Village Administrative Officer and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

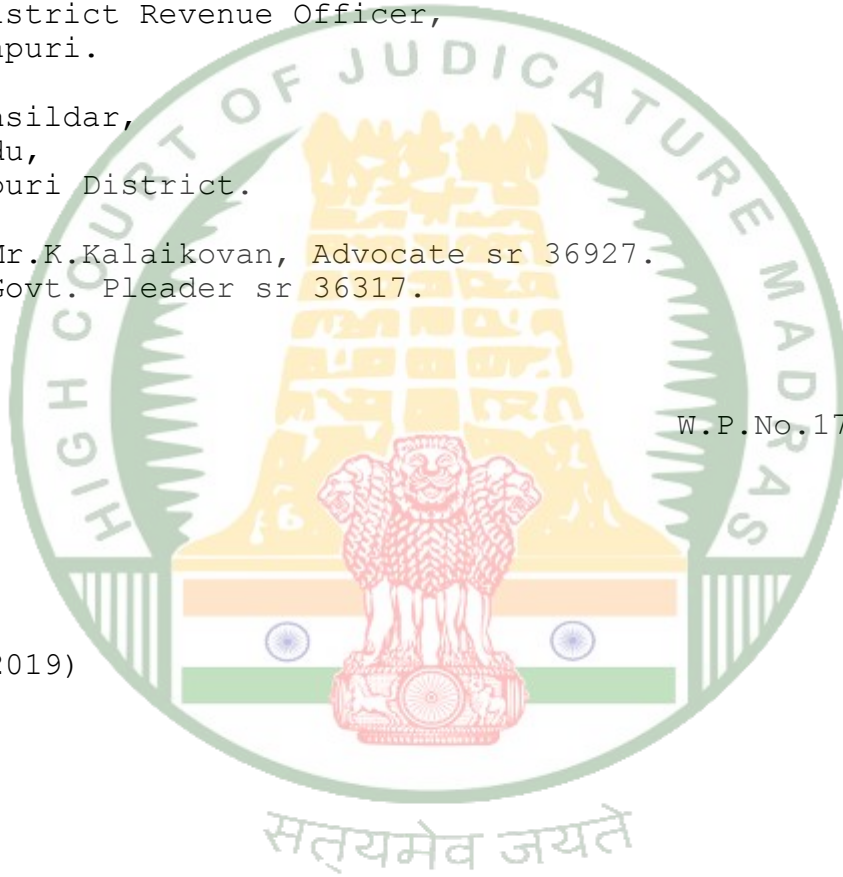
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+1 CC to Mr.K.Kalaikovan, Advocate sr 36927.
+1 CC to Govt. Pleader sr 36317.

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SVI (CO)
SP(28/05/2019)



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