

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.10.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.30997 & 30998 of 2016

T.Rajendiran

...Petitioner in W.P.No.30997 of 2016

M.Vinaya Anand

...Petitioner in W.P.No.30998 of 2016
vs.

1. The Union Territory of Pondicherry,
Rep.by its Registrar of Co-operative Societies,
Pondicherry.
2. The Administrator,
The Pondicherry State Co-operative Bank Ltd.,
Pondicherry.
3. The Managing Director,
The Pondicherry State Co-operative Bank Ltd.,
Pondicherry.

.... Respondents in both W.Ps

PRAYER IN W.P.No.30997 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 2nd and 3rd respondents to give the seniority to the petitioner as per Memorandum PSCB/HO/189/2010-2011/B dated 20.12.2010 on the file of the 2nd and 3rd respondents and consider the same.

PRAYER IN W.P.No.30998 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 2nd and 3rd respondents to pass an orders by way of giving proper placement and promotion as Junior Assistant cum Cashier Grade III, fixation of basic pay for the above said post and arrears from 12.01.2011 onwards.

For Petitioner : Mr.R.B.Annadurai
in both W.Ps

For Respondents : Mr.A.V.Ramalingam
in both W.Ps Additional Government Pleader
(Puducherry) for RR1 & 2.
Mr.R.Sreedhar for R3.

C O M M O N O R D E R

The relief sought for in the present writ petitions is for a direction to the 2nd and 3rd respondents to give seniority to the petitioner, as per Memorandum PSCB/HO/189/2010-2011/B dated 20.12.2010, on the file of the 2nd and 3rd respondents and consider the same.

2. The petitioner was working in the Pondicherry State Co-operative Bank since 09.03.1999, as a Daily Rated Peon and thereafter, he was brought under the permanent establishment and his services were also regularized.

3. The grievances of the writ petitioner is that his seniority was not fixed in accordance with law and as per the memorandum issued by the respondent in proceedings dated 20.12.2010. On account of the fact that 19 Peons were promoted to the higher post, but, the right of the writ petitioner was denied, the writ petitioner is constrained to move the present writ petitions.

4. The learned counsel appearing on behalf of the writ petitioner states that more than 19 persons were promoted over and above the writ petitioner, is in violation of the seniority list, wherein the name of the writ petitioner is placed in Serial.No.1.

5. This Court is of the considered opinion that the writ petitioner is working in the Co-operative Society, which is registered under the provisions of the Puducherry Co-operative Societies Act. There is a statutory remedy provided under the act for the purpose of redressing their grievances regarding seniority, promotions etc. Thus, the writ petitioner has to exhaust the statutory remedy provided under the Act. In the event of deciding the seniority of the writ petitioner, those persons who were already promoted or regulated will be affected. Thus, the writ petition cannot be adjudicated on merits and further, the disputed facts regarding the seniority and promotions are to be enquired into with reference to the original documents and an application regarding the same cannot be notified in a writ proceedings under Article 226 of the Constitution of India. An adjudication is required with reference to the disputed facts and issues. The said adjudication is to be done by the competent authority under the provisions of the Act. The aggrieved person has to approach the competent authority under the statute and only in exceptional circumstances, the High Court can waive the appeal remedy and

entertain a writ petition, in order to mitigate the circumstances.

6. This being the principles to be followed, the writ petitioner has to approach the competent authority or revisional authority, as contemplated under the provisions of the Act, for the purpose of redressing their grievances. Thus, the writ petitioner is at liberty to approach the competent authority for the purpose of redressing their grievances. In the event of the petitioner filing any such appeal or revision under the Act, the competent authority has to consider the same and pass orders on merits in accordance with law by affording opportunity to all the parties concerned.

7. With these directions, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The Union Territory of Pondicherry,
Rep.by its Registrar of Co-operative Societies,
Pondicherry.
2. The Administrator,
The Pondicherry State Co-operative Bank Ltd.,
Pondicherry.
3. The Managing Director,
The Pondicherry State Co-operative Bank Ltd.,
Pondicherry.

+1cc to Public Prosecutor(Pondicherry) sr.88498

W.P.No.30997 & 30998 of 2016

nr 22/11/2019