

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.16955 and 24582 of 2019
and
W.M.P.Nos.16523 and 24257 of 2019

E.Mahadevan .. Petitioner
in both petitions

Vs.

1.The Joint Registrar of Cooperative Societies,
Viluppuram Region,
Viluppuram. .. 1st Respondent in
W.P No.16955 of 2019

2.The President,
Kazhumaram Primary Agricultural
Cooperative Loan Society Ltd.
Kazhumaram Post,
Thirukovilur,
Villuppuram. ...2nd Respondent in
W.P No.16955 of 2019
& Respondent in
W.P No.24582 of 2019.

Prayer in W.P No.16955 of 2019:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to place/restore the petitioner's services as on Office Assistant cum Night Watchman in the second respondent society and to permit him to sign in the second respondent society's attendance register as a regular employee on the rolls of the second respondent society.

Prayer in W.P No.24582 of 2019:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent not to terminate the petitioner's services as an Office Assistant cum Night Watchman in the respondent society except in accordance with the law.

For Petitioner : M/s.N.Kavitha Rameshwar
(in both petitions)

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader
(in both petitions)

C O M M O N O R D E R

Writ Petitions are filed for issuance of Writ of Mandamus, 1) to direct the respondents to place/restore the petitioner's services as an Office Assistant cum Night Watchman in the second respondent society and to permit him to sign in the second respondent society's attendance register as a regular employee on the rolls of the second respondent society and 2) to direct the respondent not to terminate the petitioner's services as an Office Assistant cum Night Watchman in the respondent society except in accordance with the law.

2. The case of the petitioner is that initially he was appointed as a night watchman on consolidated pay by the 2nd respondent society on 31.12.2013 on the strength of resolution No.05 dated 31.10.2013. The respondent society also fixed his monthly salary as Rs.5000/-. Since there was a vacant in the post of Office Assistant cum Night Watchman in the 2nd respondent society, the 2nd respondent society appointed and regularized the petitioner in the post of Office Assistant cum Night Watchman from 01.12.2015 and the society started deducting EPF contribution from the petitioner's salary and paid Rs.4,400/- after deducting a contribution of Rs.600/-. Suddenly, on 30.11.2018, the 2nd respondent society removed the name of the petitioner from the attendance register and did not permit him to sign in the attendance register. Thereafter, the petitioner made a detailed representation dated 04.01.2019. Till date, the petitioner's representation was not considered. The petitioner has filed the writ petition in W.P No.16955 of 2019 to restore his service as Office Assistant cum Night Watchman in the 2nd respondent society and permit him to sign in the attendance register as regular employee and thereafter, he filed another writ petition in W.P No.24582 of 2019 to direct the 2nd respondent not to terminate the petitioner service as an Office Assistant cum Night Watchman in the respondent society except in accordance with law.

3. The learned counsel for the petitioner would submit that though the petitioner sent a representation to the District Collector on 07.01.2019 and a reply has been sent by the District Collector, he prays to issue a direction to the 2nd respondent to consider his representation dated 04.01.2019.

4. The learned Special Government Pleader appearing for the respondents would submit that the 2nd respondent society engaged a Night Watchman through the contractor and his services were availed by the 2nd respondent society. He would further submit that the petitioner did not engage a counsel directly and hence, there is no need to pass any termination order. Therefore, the prayers sought for in the writ petitions

deserve to be rejected. However, if any representation is received from the petitioner, the representation will be considered and the orders will be passed in accordance with law.

5. Considering the facts and circumstances of the case, the dispute involved in this case is whether the petitioner is a regular employee of the 2nd respondent society or not.

6. In view of the above, without going into the merits of the case, I am inclined to direct the 2nd respondent to pass orders in accordance with law on the representation submitted by the petitioner dated 04.01.2019 within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, both the Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Registrar of Cooperative Societies,
Viluppuram Region,
Viluppuram.

2.The President,
Kazhumaram Primary Agricultural
Cooperative Loan Society Ltd.m
Kazhumaram Post,
Thirukovilur, Villuppuram.

+1cc to M/s.N.Kavitha Rameshwar, Advocate SR.84048

+2cc to Mr.L.P.Shanmugasundaram, Advocate SR.84600 & 84602

+1cc to the Spl.Govt,Pleader(Co.Op), SR.85050 & 85051.

W.P.Nos.16955 and 24582 of 2019

and

W.M.P.Nos.16523 and 24257 of 2019

PA (CO)

CB(20/11/2019)