

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.17772 of 2018

and WMP.Nos.21039 & 21040 of 2018

C.Kamalesan

.. Petitioner

VS

1.The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle, Dharmapuri,
Dharmapuri District.

2.The President,
Kambainallur Primary Agricultural,
Co-operative Credit Society,
Kambainallur, Karimangalam Taluk,
Dharmapuri District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.634/2017/Tho.Sa.1 dated 14.02.2017 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.L.P.Shanmugasundaram
Spl.Govt. Pleader (Co-op)

O R D E R

Writ Petition is filed for issuance of a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.634/2017/Tho.Sa.1 dated 14.02.2017 and quash the same.

2. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is that he was appointed as Night Watchman in the second respondent Society in the month of May 2015 and he was paid salary by the second respondent

Society. Since in that locality so many untoward incidents took place for safety purpose, he was appointed as Night Watchman by passing resolution by the Board of Directors. The said appointment was made as per instructions given by the District Collector. Further, the salary has not been disbursed by the second respondent from the month of January 2017 onwards. While being so, on enquiry with the second respondent Society, the second respondent furnished the copy of the order passed by the 1st respondent in his proceedings dated 14.02.2017 and in that order, the 1st respondent directed the second respondent to cancel the petitioner's appointment. Challenging the said impugned order dated 14.02.2017, the petitioner has filed the present writ petition.

4. The learned Special Government Pleader appearing for the respondents would submit that the petitioner was working on temporary basis between May 2015 and January 2017. The petitioner's service was terminated in the month of February 2017. The second respondent has paid a sum of Rs.99,000/- to the petitioner as daily wages. However, the second respondent is willing to pay the arrears amount.

5. Considering the facts and circumstances of this case, admittedly the petitioner was appointed as Night Watchmen on temporary basis in the month of May 2015. He continued his service and received a sum of Rs.99,000/- for the work done by him. On a perusal of the impugned order dated 14.02.2017, it reveals that it is contrary to the employment Rules and it is stated that one watchman and weighman were appointed as daily wagers. The Deputy Registrar of Co-operative Societies directed the second respondent to cancel the irregular appointment on or before 24.02.2017 failing which, appropriate action will be taken. However, the communication between the first and second respondent was furnished to the petitioner belatedly which led the petitioner to raise the writ petition before this Court.

6. It is noticed that without obtaining prior approval from the competent authority, no appointment can be made by the co-operative society. In the present case, the petitioner was engaged on temporary basis through the resolution and the same is not an appointment order.

7. In the impugned order dated 14.02.2017, the first respondent directed the second respondent to cancel the appointment of the petitioner, if his appointment is irregular. If it is so, it is open to the petitioner to work out his remedy in the manner known to law. The second respondent himself admitted that he is willing to pay the balance amount. In view

of the same, the 2nd respondent is directed to pay the balance arrears amount within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is dismissed with the above observation. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle, Dharmapuri,
Dharmapuri District.

2.The President,
Kambainallur Primary Agricultural,
Co-operative Credit Society,
Kambainallur, Karimangalam Taluk,
Dharmapuri District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.83822

+1cc to Special Government (CO.OP) sr.83960

+1cc to Mr.C.Prakasam, Advocate sr.83925

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br(co)
nr 13/12/2019

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