

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.2780 of 2018

K.Mariappan

... Petitioner

Vs

- 1.The Registrar of Cooperative Societies,
N.V.Natarajan Maligai,
E.V.R. Periyar Salai,
Kilpauk, Chennai - 10.
- 2.The Regional Joint Registrar of Cooperative
Societies, Dharmapuri Regional Office,
Athiyaman Park,
Collectorate Backside,
Dharmapuri District.
- 3.The Deputy Registrar of Cooperative Society,
Dharmapuri Regional Office,
Athiyaman Park,
Collectorate Backside,
Dharmapuri District.
- 4.The President of S1002 Parayapatti Pudur (PACCS),
Parayapatti Pudur Post,
Papireddipatti Taluk,
Dharmapuri District - 636903.
- 5.The Additional Registrar of Cooperative Societies,
(Sales Scheme and Development),
(Full incharge),
N.V.Natarajan Maligai,
E.V.R. Periyar Salai,
Kilpauk, Chennai - 10.
(impleaded as 5th respondent vide
order dt.26.11.19 in WMP.No.33285/19
in W.P.No.2780/18)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the respondents resulting in the 4th respondent's resolution dated 10.09.2008 which gives

retrospective effect from 01.08.2008 through the Resolution of the then Special Officer vide No.300 and the same was confirmed by the 5th respondent's impugned order dated 05.10.2010 passed in Na.Ka.No.3164/2010/Sa.Pa. and quash the same and direct the respondents to regularize the post of Salesman with effect from the date of initial appointment of the petitioner in the post of Salesman and pay all attendant monetary benefits and back wages.

(Prayer amended vide Court order dated 26/10/2019 made in WMP No.33400/2019 in W.P.No.2780 of 2018)

For Petitioner : Mr.V.R.Venkatesan

For Respondents: Mr.L.P.Shanmugasundaram, Spl.GP

ORDER

The present writ petition is directed against the impugned proceedings dated 05.10.2010 passed by the fifth respondent / the Additional Registrar of Cooperative Societies (Sales Scheme and Development), Kilpauk, Chennai, rejecting the revision petition filed by the petitioner requesting to regularize his services from the date of his appointment as Salesman.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as Packer on 10.10.1993 as per the model bye-law of the Society. After the completion of three years of satisfactory services in the feeder category of Packer, he was promoted to the post of Salesman on 11.03.1999 by the Board by passing necessary resolution therein. Thereafter, his salary was fixed at Rs.1500-25-1625-30-1775-4-1510-50-2225 as per 18(1) settlement arrived at between All Tamil Nadu Primary Agricultural and Cooperative Credit Societies Employees' Association and the President of the fourth respondent Society and from the said date onwards, he was drawing the above said 18 (1) settlement salary from 11.03.1999 to 31.07.2008.

3. Adding further, it is submitted that as the petitioner was appointed as Packer on 10.10.1993 with a consolidated pay of Rs.300/- per month, the fourth respondent Society, finding that there was a vacancy in the post of Salesman, passed a Resolution No.279, dated 11.03.1999, and promoted the petitioner in the post of Salesman and that was also approved by the Special Officer of the fourth respondent Society. Since then, he has been serving as Salesman with a basic pay of Rs.1525/- per month with time scale of pay of Rs.1500-25-1625-30-1775-40-1975-50-2225-60-2525. It is also

further submitted that since the petitioner was having the requisite qualification for the post of Salesman, the Board has appointed him in the said post through its Resolution, therefore, it is not open to the fifth respondent to say that he cannot be regularized in the post of Salesman, as he was drawing only consolidated pay in the post of Packer and that the said Post of Packer was also not falling within the cadre strength of the Society. Therefore, the reasoning given by the fifth respondent in the impugned order that his request for regularization cannot be considered as his appointment in the post Packer was irregular is nothing but an arbitrary exercise, hence, the impugned order is liable to go.

4. A detailed counter affidavit has been filed by the respondents. Learned Special Government Pleader appearing for the respondents submitted that although the petitioner was initially appointed as Packer in the fourth respondent Society on 11.10.1993 as per the Resolution No.170, the said appointment was irregular and the post of Packer was also not approved in the cadre strength of the Society. Hence, appointing the petitioner in the post of Packer was not a regular one and therefore, he is not entitled to seek regularization of his services in the post of Salesman. Moreover, he was not appointed through the employment exchange for appointment as Packer. Although he was subsequently promoted as Salesman with effect from 01.03.1999 as per the Resolution No.279 of the Special Officer of the Society, as that was a wrong appointment, the fifth respondent has rejected his request to regularize his services as his initial appointment in the post of Packer itself was an irregular one. Therefore, the impugned order passed by the fifth respondent cannot be found fault with.

5. This Court hardly finds any justification on the above said submission. Firstly, the reasoning given by the fifth respondent that initial appointment of the petitioner in the post of Packer is not falling within the cadre strength of the Society is wholly unacceptable, since the Special Officer of the fourth respondent Society, through a Resolution No.279, dated 01.03.1999, found the petitioner fit for promotion to the post of Salesman as he possessed the requisite qualification even on the date of his initial appointment as Packer. Secondly, after the said Resolution, he was also promoted to the post of Salesman with basic pay of Rs.1525/- per month. Thereafter, he has been serving as Salesman in the fourth respondent for more than 27 years and he was also allowed to draw the salary for the post of Salesman for about 10 years. Thus, having allowed the petitioner to draw the salary for about 10 years in the post of Salesman, the fifth respondent cannot

now refuse to regularize his services stating that his initial appointment as Packer was not falling within the cadre strength of the fourth respondent Society, especially when he has rendered more than 27 years of unblemished services in the fourth respondent Society.

6. Hence, for the reasons stated above, the impugned order is set aside and the writ petition is allowed with a direction to the respondents to regularize the services of the petitioner from the date of his appointment in the post of Salesman. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Registrar of Cooperative Societies,
N.V.Natarajan Maligai,
E.V.R. Periyar Salai,
Kilpauk, Chennai - 10.
- 2.The Regional Joint Registrar of Cooperative
Societies, Dharmapuri Regional Office,
Athiyaman Park,
Collectorate Backside,
Dharmapuri District.
- 3.The Deputy Registrar of Cooperative Society,
Dharmapuri Regional Office,
Athiyaman Park,
Collectorate Backside,
Dharmapuri District.
- 4.The President of S1002 Parayapatti Pudur (PACCS),
Parayapatti Pudur Post,
Papireddipatti Taluk,
Dharmapuri District - 636903.

5.The Additional Registrar of Cooperative Societies,
(Sales Scheme and Development),
(Full incharge),
N.V.Natarajan Maligai,
E.V.R. Periyar Salai,
Kilpauk, Chennai - 10.

+1cc to the Special Government Pleader sr.99924
+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.99147
+1cc to Mr.V.R.Venkatesan, Advocate Sr.98484

W.P.No.2780 of 2018

gmr[col]
srg 21/02/2020



WEB COPY