

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos. 23515 and 23519 of 2019

and

WMP.Nos. 23310, 23312,23320

and

23321 of 2019

1. K. Subramani

...Petitioner in
W.P.No. 23515 of 2019

2.C. Elangovan

..Petitioner in
W.P.No.23519 of 2019

Vs

1. The Managing Director,
Tamilnadu Cooperative Union
N.V.Natarajan Maligai,
No.170, Periyar EVR High Road,
Kilpauk, Chennai-10.

2. Mrs. S. Senththamil Selvi,
Managing Director
Tamilnadu Cooperative Union
N.V.Natarajan Maligai,
No.170, Periyar EVR High Road,
Kilpauk, Chennai-10.

..Respondents in both
WPs

Prayer in W.P.No.23515 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari or any other appropriate writ or direction in the nature of order by calling for the records of the 1st respondent in its Na.Ka.No.0001/MD/2018 datd 31.07.2019 and quash the same in so far as the petitioner is concerned.

Prayer in W.P.No.23519 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari or any other appropriate writ or direction in the nature of order by calling for the records of the 1st respondent in its Na.Ka.No.0001/MD/2018 datd 31.07.2019 and quash the same in so far as the petitioner is concerned.

For Petitioners : M/s.V.Vijayshankar
For Respondents : Mr.L.P. Shanmugasundaram,
Standing Counsel (Co.Op)

COMMON ORDER

These Writ Petitions are taken up and disposed of by way of common order, since the issue involved in these Writ Petitions is common.

2. The case of the petitioner in W.P. 23515 of 2019 is that he joined as Assistant Training Officer in ITI Bargur in the year 1992 and during his service, he was transferred to various places. On 09.01.2018 he was transferred from Bargur to Chennai Headquarters and on 22.01.2019 he was posted as Assistant Director (Incharge) and immediately on 31.07.2019, the impugned order transferring the petitioner to ITI Bargur was issued. Challenging the same, the present writ petition is filed.

3. The case of the petitioner in W.P. 23519 of 2019 is that he joined as Assistant Training Officer in ITI Pattukottai in the year 1992 and during his service, he was transferred to various places. On 09.01.2018 he was transferred from Pattukottai to Chennai Headquarters and on 22.01.2019 he was posted as Assistant Director (Incharge) and immediately on 31.07.2019, the impugned order transferring the petitioner to ITI Pattukottai was issued. Challenging the same, the present writ petition is filed.

4. Mr. Vijay Shankar, the learned counsel appearing for the petitioners submitted that the Tamilnadu Cooperative Union which is an Apex body formed by the Government of Tamilnadu for promoting Cooperative Education and Training. There are 20 Institutes of Cooperative Management (ICM) in different districts of Tamilnadu which offer Diploma in Cooperative Management Course. He has further submitted that both the petitioners were posted as Assistant Director (Incharge) on 22.01.2019. There are 17 posts of Assistant Director in the respondent body and all of them were vacant as promotions had not been made for several years. Th Registrar of Cooperative Societies who is the Administrative Head of the body, had issued several directives calling upon the 1st respondent to periodically publish seniority lists and frame byelaws for enabling promotions to be made to the various posts. Since the Successive Managing Directors had not taken any steps, the petitioner along with other employees formed an association namely 'Tamilnadu Cooperative Union Employees Association', in

which the petitioners are selected as Office bearers of the Association.

5. The learned counsel for the petitioners further submitted that after forming the association, they met the respondents and requested to sort out the long pending demands expeditiously. Instead of taking steps to sort out the demand, they were issued transferred orders.

6. On the other hand Mr.L.P. Shanmugasundaram, learned standing counsel appearing for the respondents submitted that the petitioners were appointed as Assistant Training Officers in the respective Training Institutes and their service are governed by the special bylaws relating to the service conditions of employees of the Tamilnadu Cooperative Union. It is further submitted that as per the said bylaw, the petitioners are not eligible to be transferred or to make hold the additional charge of the posts in the Head Office of the 1st respondent Office.

7. On perusal of records, it reveals that the short issue involved in the present case is whether the persons holding the post of Assistant Training Officer are entitled to hold the post of Assistant Director in the Head Quarters. Admittedly the petitioners prior to the transfer order dated 09.01.2019 were employed as Assistant Training Officers in Bargur and Pattukottai respectively. As per the transfer order on 09.01.2019, the petitioners were posted as Assistant Directors Incharge in the Head Quarters, Chennai and thereafter the impugned orders came to be passed on 31.07.2019.

8. Mr.Vijay Shankar, learned counsel appearing for the petitioners would submit that the entire impugned transfer orders were passed with malafied intention on administrative grounds. The learned counsel further submit that the petitioners had not disputed the feeder category to the post of Assistant Director.

9. It is seen that as per the Special Bylaw, the feeder category for the post of Assistant Director post is Development Officer/Private Secretary/Superintendent. Since, the petitioners were working as Assistant Training Officers which is not the feeder category, they are not entitled to hold the post of Assistant Director (Incharge). The persons who have not worked in the feeder category, cannot be permitted to hold the promotional post of higher category. Therefore, I am of the view that the earlier postings itself is bad in law and hence the impugned order cannot be interfered with.

10. In the result, these Writ Petitions are dismissed.

However, this Court grants time to the petitioners to join duty till 31st December 2019. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Managing Director,
Tamilnadu Cooperative Union
N.V.Natarajan Maligai,
No.170, Periyar EVR High Road,
Kilpauk, Chennai-10.

+2cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.90836, 90837

+2cc to Mr.V.Vijay Shankar, Advocate, S.R.No. 90587, 90588

+1cc to the Special Government Pleader(Co-Op), S.R.No. 90372

W.P.Nos. 23515 and 23519 of 2019
and

WMP.Nos. 23310, 23312,
23320 and 23321 of 2019

BR(CO)
GN(11/12/2019)