IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27839 of 2019
and
W.M.P.Nos.27389 to 27391 of 2019

A.Ambikapathi

... Petitioner

Vs.

1.The Registrar of Co-operative Societies
Registrar of Co-operative Societies Office
No.70, EVR Periyar Salai
Kilpauk, Chennai 600 010

2.The Salem Co-operatives District Recruitment Board
Office of the Joint Registrar of Cooperative Societies
Room No.410
Salem Collectorate Co-operative Department
Salem 636 001

3.The Managing Director / Joint Registrar
Vellore District Central Co-operative Bank Limited
Head Office, No.3, Officers Line
Vellore 632 001

4.Salem District Central Cooperative Bank Ltd.,
Cherry Road
Salem 636 001

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records in Advertisement No.2/2019 dated 28.08.2019 issued by the 2nd respondent calling for application to the post of Assistants in the 2nd respondent Bank, quash the same and consequently direct the 2nd respondent to consider the petitioner's request for transfer and absorption to the post of Assistant in the 4th Respondent Bank within a time frame.

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For Petitioner : Mr.R.Diwakaran
For Respondents : Mr.L.P.Shanmugasundaram
Spl. G.P. (Co-Operative)

O R D E R

By consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

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2.The case of the petitioner is that he entered service under the 3rd respondent Bank as as Assistant on a regular basis in 2016 and he was regularised in service as Assistant. The petitioner is a native of Namakkal. On account of being posted in Vellore District, the petitioner is not in a position to spend time with his family and he has aged parents who are residing at Namakkal to take care. The Government of Tamil Nadu issued a Circular to the 1st Respondent with Guidelines for transfer and absorption of employees from Non-common Cadre services in Cooperative Societies on conditions that the employee should have been appointed on regular basis as per bye laws and regularised in the parent Society. The absorbing society should have the requisite cadre strength and number of vacancies, the employee who applies for absorption should be absorbed in the same post and he will be treated as a newly recruited employee and will not be given service continuation from the parent society and should not ask for service seniority or salary protection. The 1st respondent also issued a circular to all the Central Cooperative Banks instructing that the guidelines prescribed in the Government's Circular should be followed in all cases of transfer and absorption from one Central cooperative Bank to another. Therefore, the petitioner made a representation dated 25.01.2019 to the 1st respondent through the 3rd respondent seeking transfer to the 4th respondent Bank, narrating his family circumstances. However, the 3rd and 4th respondents have not taken his representation into consideration and have failed to process the same. In the meanwhile, the 2nd respondent issued the impugned advertisement inviting applications to the post of assistants to fill up the existing vacancies. The Government issued Guideline prescribed that the request for transfer and absorption should only be to a vacant post available in the transferee /absorbing Bank. If the vacancies notified in the impugned advertisement are filled up, the petitioner will be denied the right to be transferred, absorbed and posted as a fresh entrant as per the circulars dated 19.09.2018 issued by the Government and 18.10.2018 issued by the 1st Respondent. Hence, the petitioner is before this court.

3.The learned counsel for the petitioner would further submit that it would suffice if a direction is issued to the **3rd** respondent to consider the petitioner's request for transfer and absorption to the post of Assistant in the 4th Respondent Bank, within a reasonable time fixed by this Court.

4.The learned Special Government Pleader appearing for the respondent would accede to the request made by the learned counsel for the petitioner and submitted that the same will be considered on merits and in accordance with law.

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5.Thus, without going into the merits of the case, this Court is inclined to direct the **3rd** respondent to consider the petitioner's request for transfer and absorption to the post of Assistant in the 4th Respondent Bank based on his representation dated 25.01.2019 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

6.With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS V)

***Corrected as per order of this court dt.27.7.20 made in WP.No.27839/19**
sd/-
Assistant Registrar (AR-Mud)
dt.20.8.20

True Copy

Sub-Assistant Registrar

To

1.The Registrar of Co-operative Societies
Registrar of Co-operative Societies Office
No.70, EVR Periyar Salai
Kilpauk, Chennai 600 010

***To be subtitutted to the order already despatched on 16.12.2019.**

2.The Salem Co-operatives District Recruitment Board
Office of the Joint Registrar of Cooperative Societies
Room No.410
Salem Collectorate Co-operative Department
Salem 636 001

3.The Managing Director / Joint Registrar
Vellore District Central Co-operative Bank Limited
Head Office, No.3, Officers Line
Vellore 632 001

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4.Salem District Central Cooperative Bank Ltd.,
Cherry Road
Salem 636 001

+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 81118
+1 CC to The Spl. Govt. Pleader(CO OP) **sr 25425.**
+1 CC to M/s.D. Geetha, advocate sr 80782.

W.P.No.27839 of 2019

PPA(CO)
SP(31/10/2019)
krd 24/8/2020

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