



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No. 35131 of 2019

1.R.Raja

2.S.Ratnagiri

...Petitioners

Vs.

1.The Registrar of Co-operative Society,
Thattanchavady, Puducherry.

2.The Managing Director,
Puducherry State Co-operative Consumer
Federation (CONFED),
Puducherry.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus, directing the second respondent to revive the regularisation of the petitioners in the post of Junior Assistant immediately after lifting of the Model Code of Conduct June 2011 dated 25.03.2011 and to direct the second respondent to give all the service benefits to the petitioners with effect from 01.03.2011.

For Petitioner : Mr.V.Ajaykumar

For Respondents : Mr.A.V.Ramalingam,
Additional Government Pleader.

O R D E R

This writ petition has been filed for issue of writ of mandamus directing the 2nd respondent to revive the regularisation of the petitioners in the post of Junior Assistant from the year 2011 onwards along with other benefits.

2. The case of the petitioners is that they were working as Junior Assistants in the Puducherry State Co-operative Consumer's Federation. In year 2011, they were considered for regularisation. However, by order dated 25.03.2011, the regularisation orders were kept in abeyance till the existence of Model Code of Conduct in force. Subsequently, the Model Code of Conduct was lifted and in spite of the same the petitioners were not regularized.



Subsequently, by an office order dated 20.08.2015, the service of the petitioners were regularized in the cadre of Junior Assistant in the existing vacancies.

3. The grievance of the petitioners is that they should have been regularized in service from 2011 onwards since their regularization was under consideration even at that point of time and only the Model Code of Conduct was coming in the way of regularizing the service of the petitioners. Therefore, the petitioners have made a representation to the respondents seeking for regularizing their service in the post of Junior Assistant from the year 2011 onwards. This representation was not considered and therefore the present writ petition has been filed before this Court.

4. Heard Mr.V.Ajayakumar, learned counsel appearing on behalf of the petitioners and Mr.A.V.Ramalingam, learned Additional Government Pleader appearing on behalf of the respondents.

5. The learned counsel appearing on behalf of the respondents submitted that the petitioners have raised a dispute touching upon their service benefits seeking for regularization and therefore the dispute can be settled only before the concerned authority under Section 84 of the Pondicherry Co-operative Societies Act, 1972. The learned counsel submitted that the petitioner cannot directly approach this Court seeking for the relief since there is a particular procedure that is contemplated for settlement of disputes under Section 84 of Pondicherry Co-operative Societies Act r/w. Rule 64 of the relevant rules. The learned counsel submitted that without exhausting this remedy, the petitioners cannot be permitted to directly approach this Court seeking for relief.

6. It will be relevant to extract under Section 84(1) of the Pondicherry Co-operative Societies Act, 1972 :-

"84(1) If any dispute touching the constitution of the committee or the management or the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises--"

7. It is clear from the Section 84(1) that the statutory remedy is provided only where the dispute touches upon the constitution of the committee or the management or the business of a registered society. The issue that has been raised by the petitioners will not fall within Section of 84 (1). Therefore, the submission made by the learned counsel for the respondents that the petitioners have not exhausted the statutory remedy is liable to be rejected.



8. The further contention raised by the learned counsel for the respondents is that there is a considerable delay on the part of the petitioners in approaching this Court. This contention is also liable to be rejected since the petitioners have been working on this remedy right from the year 2011 onwards and ultimately they were given regularization only in 2015 and the claim made by the petitioners that they are entitled for regularization from 2011 has not been considered. This Court is of the considered view that the so called delay cannot be put against the petitioners, since they are seeking for a substantial relief and therefore the respondents have to deal have to same and consider the claim in accordance with law and provide a solution for the problem.

9. In the result, there shall be a direction to the second respondent to consider the representation made by the petitioners on 16.10.2019 and deal with the same on its own merits and in accordance with law and pass appropriate orders within a period of eight(8) weeks from the date of receipt of copy of this order. The petitioners are directed to give a fresh representation to the second respondent along with a copy of the representation dated 16.10.2019 and a copy of this order.

10. This writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kkn
To:-

1.The Registrar of Co-operative Society,
Thattanchavady, Puducherry.

2.The Managing Director,
Puducherry State Co-operative Consumer
Federation (CONFED),
Puducherry.

+1cc to Mr.V.Ajaykumar, Advocate SR.No.105617

+1cc to Government Pleader (Puducherry) SR.No.106635

W.P.No. 35131 of 2019

RSI (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMI (08/01/2020)