



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.14940 of 2014
and
M.P.(MD).No.2 of 2014

S.Jeevan Kennedy

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Tuckalay,
Kanyakumari District.

2.The President,
No.Y.225, Palappallam Primary Agricultural
Co-operative Credit Society Ltd.,
Palappallam - 629 159,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned direction of the 1st respondent in his proceedings in Na.Ka.2563/14 Tho.Ve.Sa, dated 04.08.2014 and the consequential orders of reversion dated nil passed by the 2nd respondent and quash the same as illegal.

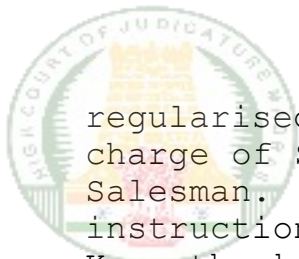
For petitioner : Mr.M.E.Ilango

For respondents : Mr.S.Dhalayan,
Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the order passed by the first respondent dated 04.08.2014 and the consequential order dated nil passed by the second respondent, reverting the petitioner from the post of Salesman to the original post of Helper.

2.The learned counsel for the petitioner submitted that the petitioner was initially appointed as Helper by the second respondent in the year 1999 and his service was subsequently



regularised in the post of Helper and on 25.10.2013 he was given charge of Salesman and on 01.11.2013, he was promoted to the post of Salesman. While the petitioner was working as Salesman, on the instruction of the first respondent, the Sub-Registrar, Kurunthankodu conducted a field inspection in the Society and submitted his report to the first respondent. Based on the said report, the first respondent has directed the 2nd respondent to pass a resolution reverting the petitioner from the post of Salesman to the original post of Helper and accordingly, the 2nd respondent passed an order. As the respondents have passed the impugned orders, without providing any notice and an opportunity to the petitioner, the petitioner has come up with this writ petition. He would further submit that the petitioner has been working in the promoted post from 01.11.2013 to 19.08.2014 and while so, in violation of principles of natural justice, the respondents have passed impugned orders and hence the same may be set aside. Thus, he prayed to allow this Writ Petition.

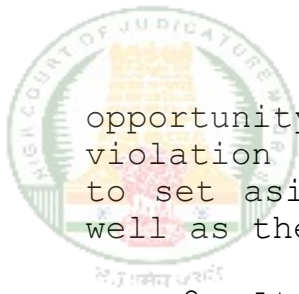
3.The learned Government Advocate appearing for the respondents submitted that as the petitioner has been illegally given promotion to the post of Salesman, the first respondent has directed the second respondent to revert the petitioner to his original post. The petitioner cannot claim the promotion as a matter of right. Therefore, this petition may be dismissed.

4.Heard the learned counsel for both sides and perused the materials available on record.

5.A perusal of record shows that the petitioner's service in the post of Helper was regularised and on 01.11.2013, he was promoted as Salesman only by the 2nd respondent and the petitioner served in the promoted post till the impugned order passed by the 2nd respondent ie., till 19.08.2014. Based on the report of the Sub Registrar, Kurunthankodu, dated 06.05.2014 and the letters of the Deputy Registrar of Cooperative Societies, Thuckalay, dated 27.05.2014 and the second respondent dated 14.07.2014, the petitioner's promotion was directed to be reverted by the first respondent, vide order dated 04.08.2014.

6.Though the writ petition has been filed in the year 2014, till date no counter affidavit has been filed by the respondents. The respondents have not produced the documents based on which the first respondent stated to have come to the conclusion that the petitioner was given illegal promotion. However, a perusal of the impugned order shows that the petitioner has not been given any notice and also documents stated in the impugned order, before passing the impugned order dated 04.08.2014.

7.As the promotion has been given only by the 2nd respondent and the petitioner has also served about 10 months in the promoted post, <https://hccservicescourts.gov.in/hccservices/> the order of reversion, he should have been an



opportunity. But, that has not been done. As there is a clear violation of principles of natural justice, this Court is inclined to set aside the impugned order passed by the first respondent as well as the consequential order passed by the 2nd respondent.

8. At this juncture, it is stated that based on the interim order granted by this Court, the petitioner has been continuing in the post of Salesman.

9. In view of the above, the impugned orders passed by the respondents are set aside and the respondents are directed to give continuity of service to the petitioner in the post of Salesman and pay eligible service and monetary benefits, if any, within a period of eight weeks from the date of receipt of a copy of this order.

10. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Deputy Registrar of Cooperative Societies,
Tuckalay, Kanyakumari District.

+1 CC to M/s.M.E.ILANGO, Advocate (SR-104831[F] dated 13/12/2019)

+1 CC to M/s.Special Government Pleader (SR-104977[F] dated
13/12/2019)

W.P (MD) No.14940 of 2014
12.12.2019

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