

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 16.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM**W.P. (MD) No. 2647 of 2014****and****M.P. (MD) No. 1 of 2014**

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M. Sundaravel

... Petitioner

Vs.

1. The Appellae Authority,
(The Deputy Commissioner of Labour),
Tamil Nadu Shop and Establishment Act,
No.C-1/5-C, Rathinasamy Nadar Salai,
Visalatchipuram, Madurai-14.
2. The Joint Registrar of Co-Operative Society,
Madurai Region,
Madurai 625 002.
3. The Deputy Registrar of Co-Operative Society,
No.42, Krishnarayar Theppakulam Street,
North Veli Street, Madurai 625 001.
4. The Special Officer,
M.M.3215, Madurai District Ex-Servicemen's
Consumer Co-Operative Stores Ltd.,
No.103, Jawans Bhavan,
West Veli Street, Madurai 625 001.
5. The President
M.M.3215, Madurai District Ex-Servicemen's
Consumer Co-Operative Stores Ltd.,
No.103, Jawans Bhavan,
West Veli Street,
Madurai 625 001.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 to 5 to reinstate the petitioner on service on the basis of the order of the first respondent/appellate authority in case No.TNSE 22/2001 dated 29.06.2001 and consequently direct the respondents-2 to 5 to pay all attendance and other monetary benefits thereof.

For Petitioner	: Mr.V.Thirumal
For R1 to R4	: Mr.D.Muruganantham Additional Government Pleader
For R5	: Mr.R.Saravanan

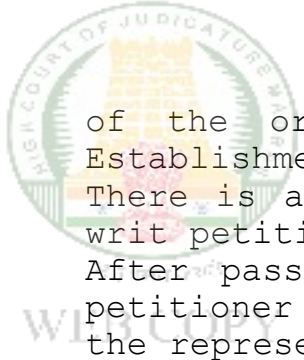
**ORDER**

The relief sought for in the present writ petition is for a direction to direct the respondents 2 to 5 to reinstate the petitioner on service on the basis of the order of the first respondent/appellate authority in case No.TNSE 22/2001, dated 29.06.2001 and consequently direct the respondents-2 to 5 to pay all attendance and other monetary benefits.

2. The writ petitioner was appointed as Salesman on temporary daily wage basis in the fifth respondent Co-operative Stores. The writ petitioner was initially appointed on daily wage and his initial appointment was irregular. In respect of the irregular appointments, a batch of writ petitions were filed before the High Court and the Hon'ble Division Bench of this Court delivered a Judgment in the case of ***Justine and Others -Vs. Registrar of Co-operative Societies, reported in 2002(4) CTC, 385.*** As per the Judgment, the Joint Registrar has taken action for verification of the service records of such daily rated employees and thereafter, the benefit of regularisation was granted as far as the eligible and qualified persons are concerned. The writ petitioner during the year 2001 approached the competent appellate authority under the provisions Shops and Establishment Act. Now, the present writ petition is filed based on the order passed by the competent authorities under the Shops and Establishment Act. The said order was passed on 29.06.2001. The appellate authority though passed an order in the year 2001, the same was not implemented. The learned counsel for the petitioner states that the petitioner approached the authorities continuously by submitting representations. Thus, the delay cannot be held against the writ petitioner.

3. The learned counsel appearing on behalf of the Co-operative society as well as the learned Additional Government Pleader made a submission that the initially appointment of the writ petitioner was on temporary basis as daily wage employee and the initial appointment of the writ petitioner was irregular and therefore, now after a lapse of so many years, the writ petitioner cannot seek implementation of the orders of the appellate authority issued under the provisions of the Shops and Establishment Act.

4. This Court is of the considered opinion that the writ petitioner was initially appointed as daily wage employee. Undoubtedly, the writ petitioner was initially approached the appellate authority under the Shops and Establishment Act. The appellate authority also passed an order in favour of the writ petitioner on 29.06.2001. The contention of the writ petitioner is that he was approaching the authorities for the past about 18 years, cannot be accepted. A person aggrieved must pursue the legal remedy prudently and vigilantly. The writ petition itself was filed on 13.02.2014 after a lapse of about 13 years from the date of passing



of the order by the appellate authority under the Shops and Establishment Act in Case No.TNSE/22/2001, dated 29.06.2001. There is an enormous delay even in filing the writ petition. The writ petitioner was terminated from service long back on 17.01.2001. After passing of the order by the appellate authority, the writ petitioner has not pursue the remedy vigilantly. Mere submission of the representation to the authorities or approaching the authorities in persons would not constitute a ground for the purpose of granting the relief. Now, after a lapse of 18 years from the date of termination and further 18 years from the date of passing of the order by the appellate authority under the provisions of the Shops and Establishment Act in view of the fact that the writ petitioner has slept over his right for many years now, this Court cannot grant any relief to the writ petitioner for reinstating him. This apart, the writ petitioner was working in the Co-operative Society and his initial appointment was irregular and under these circumstances, the relief as such sought for in the present writ petition deserves no merit consideration.

5. Accordingly, the writ petition stands dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

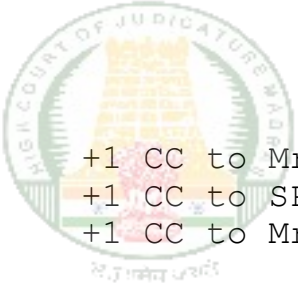
Assistant Registrar

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Sub Assistant Registrar(CS)

To

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+1 CC to Mr.R.SARAVANAN, Advocate (SR-75591[F] dated 16/07/2019)
+1 CC to SPL GP (SR-75689[F] dated 17/07/2019)
+1 CC to Mr.V.THIRUMAL, Advocate (SR-75836[F] dated 17/07/2019)

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W.P. (MD) No.2647 of 2014
16.07.2019

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