



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.20924, 21081, 21252 and 22303 of 2019

and

W.M.P. (MD) Nos. 17499, 17709, 17710, 17711, 17913, 17914, 17917 and 19077 of 2019

W.P(MD).No.20924 of 2019

S.R.Praveen Raj

....Petitioner

Vs.

1.The Secretary to Government
Co-operative Food and Consumer Protection Department
St.Fort George
Chennai 600 001

2.The Registrar of Co-operative Societies
Kilpauk
Chennai

3.The Chairman
District Recruitment Bureau of
Co-operative Societies/Joint Registrar of
Co-operative Societies
Kanaka Apartments
Madurai

.....Respondents

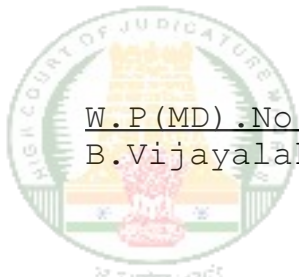
W.P(MD).Nos.21081 and 21252 of 2019

1.C.PrabhuPetitioner in W.P(MD).No.21081 of 2019

2.R.Shyamala GowriPetitioner in W.P(MD).No.21252 of 2019

Vs.

The District Recruitment Bureau
Co-operative Department
Office of the Joint Registrar of Co-operative Societies
2nd Floor, Collectorate Building
Dindigul District 624 004 ...Respondent in both petitions



W.P(MD).No.22303 of 2019

B.Vijayalakshmi

....Petitioner

Vs.

1.The Registrar of Co-operative Societies
Office of the Registrar of Co-operative Societies
Keelpakkam
Chennai

2.The District Recruitment Bureau
Co-operative Department
Represented by the Joint Registrar of Co-operative
Societies/Chairman
Office of the Joint Registrar of Co-operative Societies
No.13A, Kanaga Apartment
LDC College Road
Chinna Chokkikulam
Madurai 625 002
Madurai District

3.The Director
Annamalai University
Directorate of Distance Education
Annamalainagar 608 002
Chidambaram

.....Respondents

PRAYER in W.P(MD).No.20924 of 2019 : This Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 3rd respondent to accept the certificate of Post Graduate Diploma in Co-operative Management issued by Annamalai University as valid certificate for the post of Assistant/Clerk in the Central Co-operative Bank and Primary Agricultural Co-operative Societies.

PRAYER in W.P(MD).No.21081 of 2019 : This Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorified Mandamus, to call for the records relating to the order of the respondent passed in No.DIN2201900331 dated Nil and quash the same and consequently direct the respondent to accept the application form of the petitioner in No.DIN2201900331.

PRAYER in W.P(MD).No.21252 of 2019 : This Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorified Mandamus, to call for the records relating to the order of the respondent passed in No.DIN2201900592 dated Nil and quash the same and consequently direct the respondent to accept the application form of the petitioner in No.DIN2201900592.

PRAYER in W.P(MD).No.22303 of 2019 : This Writ Petition has been filed under Article 226 of the Constitution of India for issuance of



Writ of Mandamus, to direct the 2nd respondent to accept petitioner's application in No.MDR 1201901239 and to issue hall ticket to the petitioner to participate in the written examination to be held on 03.11.2019 as well as in entire selection process for the post of Assistant, recruited pursuant to the 2nd respondent's advertisement no.01/2019 dated 19.08.2019 by considering the petitioner's representation dated 15.10.2019.

In W.P(MD).No. 20924 of 2019

For Petitioner : Mr.S.Kumar
For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.S.Dhayalan
Government Advocate.

In W.P(MD).No. 21081 & 21252 of 2019

For Petitioners : Mr.V.O.S.Kalaiselvam
For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.S.Dhayalan
Government Advocate.

In W.P(MD).No. 22303 of 2019

For Petitioner : Mr.M.S.Jeyakarthik
For R1 & R2 : Mr.K.Chellapandian
Additional Advocate General
Assisted by Mr.S.Dhayalan
Government Advocate.

COMMON ORDER

Since the issues involved in these Writ Petitions are one and the same, these Writ Petitions are heard together and disposed of by way of this common order.

2.The petitioners except petitioner in W.P(MD).No.22303 of 2019, in response to the Advertisement No.1/2019, dated 28.08.2019, issued by the District Recruitment Board Co-operative Society, applied for the post of Assistants. The application of the petitioner in W.P(MD).No.22303 of 2019 was not accepted. The application of the petitioners were rejected on the ground that the petitioners have done Post Graduate Diploma in Co-operative Management, which is not equivalent to the Co-operative Management Training as prescribed by the Registrar of the Co-operative Societies. Hence, the petitioners have come up with the present Writ petitions.



3.The learned counsel appearing for the petitioners separately contended that by relying on G.O.Ms.No.494 Co-operative Food and Consumer Protection Department, dated 27.10.1992, the Registrar of the Co-operative Society, issued a circular and it has been clarified that the Post Graduate Diploma in Co-operative Management Training Certificate, obtained in Annamalai University is equivalent to Diploma in Co-operative Training. The said Government Order is not altered and it is still in force. The Registrar of Co-operative Society, by circular dated 18.07.2013, clarified that the completion of Co-operative Training is a pre-requisite and that the person to be appointed to the post, must have basic knowledge of Co-operative principles, book keeping, accounting, auditing and the procedures to be followed by Co-operative Institutions. The Post Graduate Diploma in Co-operative management Course is conducted by the Annamalai University, in which, all these subjects are there and also there are more than mandatory requirements called for to the post. The learned counsel further contended that the reason given by the respondents for rejecting the application of the petitioners, is erroneous. As Post Graduate Diploma in Co-operative Management certificate issued by the Annamalai University is equivalent to the Co-operative Training as contemplated by the Registrar of the Co-operative Society and prayed for allowing these Writ petitions.

4.The Respondents filed a counter affidavit and denying all the averments made in the affidavit filed in support of the above Writ petitions. The learned Additional Advocate General appearing for official respondents contended that the Government Order in G.O.Ms.No.494 Co-operation Food and Consumer Protection Department dated 27.10.1992 and the Circular referred to by the learned counsel appearing for the petitioners are before the amendment of Rule 149 of the Tamil Nadu Co-operative Societies Rule, 1988. By amendment of Rule 149, the qualification of possessing Post Graduate Diploma in Co-operative Management is made as basic qualification.

5.Rule 149 was totally amended by the Government Order in G.O (Ms).No.212, Co-operation, Food and Consumer Protection (CJI) Department, dated 04.07.1995, with effect from 02.08.1995 and the said amendment is extracted in the counter, which reads as follows:

"Starting that, " Every Society shall taking into account its nature of business volume of transaction and financial position, adopt (with the prior approval of the Registrar) a Special byelaw covering the service conditions of its employees. The byelaw shall inter alia, prescribe the following:

(i) cadre strength and classification of various categories of posts and the qualifications required thereof for each such post



(ii) the method of recruitment for each such post
(iii) the scale of pay and allowances for each such posts

(iv) conditions of probation for each such posts
(v) duties and responsibilities for each such posts
(vi) leave of various kinds admissible and the condition thereto for each such posts.

(vii) the penalties that may be imposed upon the procedure for taking disciplinary action and inflicting various kinds of punishments on an employee holding each such post and the authority competent to entertain and dispose of appeal made against an order of punishment imposed by the competent authority on a disciplinary proceedings

(viii) conditions relating to acquisition and disposal of movable and immovable property:

Provided that a minimum period of three years of satisfactory service shall be prescribed for eligibility for promotion from one category to the immediate next high category post:

provided further that the Co-operative Training at the appropriate level may be prescribed as a necessary qualification for specific categories of non-technical posts".

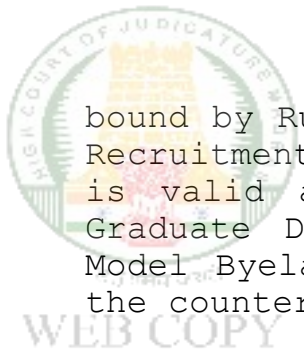
6. Based on the said amendment, every Society shall taking into account of its nature of business, volume of transaction and financial position, adopt a Model Special Byelaw relating to service conditions of its employees. Accordingly, The Registrar, vide circular dated 18.07.2013, has given instructions specifying that "Co-operative Training" shall continue to be "Necessary other Qualification" for appointment by Direct Recruitment or by promotion to any category of post from lower level of Salesman to top level post of Secretary. The amendment clearly spells the following subjects have to be studied in Co-operative Training undergone.

- (i) Co-operation;
- (ii) Book Keeping ;
- (iii) Banking; and
- (iv) Auditing.

The petitioner has not studied the following subjects in his post Graduate Diploma in Co-operative Management:

- (i) Book Keeping;
- (ii) Banking; and
- (iii) Auditing

7. The respondent is the Government Agency, constituted as per Tamil Nadu Co-operative Societies Rules, 1988. The respondent is



bound by Rules and the Government Orders and Circular issued by the Recruitment Board. The rejection of application of the petitioners is valid and legal, as the petitioners are not possessing post Graduate Diploma in Co-operative Management as prescribed in the Model Byelaws issued as per Rule 149 and the same is extracted in the counter, which reads as follows:

"9.It is humbly submitted that, the provisions of Tamil Nadu C-operative Societies Rule 149 as existed before 1995 amendment had prescribes two kinds of qualifications:

(i)basic qualification

(ii)other qualification

(iii) in the basic qualification, if a person has studied subjects that are dealt in other qualification (Co-operative Training), they need not undergo Co-operative Training.

In other words, a person will be considered as Co-operative trained if he studies all the subjects that are taught in " Co-operative Training" conducted by the Co-operative Training Institution as well as the Central Co-operative Training Colleges" and prayed for dismissal of these Writ petitions.

8.Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the official respondents.

9.From the materials on record, rival submissions of the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the official respondents, it is clear that apart from basic qualifications for appointment in a Co-operative Society, a certificate in Co-operative Management is necessary qualification. Number of persons have obtained certificates in Post Graduate Diploma in Co-operative Management conducted by the Annamalai University. When a doubt arose as to whether the said certificate is equivalent to Co-operative Management, the Government Order in G.O.Ms.No.494 Co-operative Food and Consumer Protection Department dated 27.10.1992 and the Registrar of the Co-operative Society issued circular dated 12.09.2007, clarified that the Post Graduate Diploma Certificates issued by Annamalai University is equivalent to Co-operative Management. The learned Additional Advocate General contended that the said Government Order was issued prior to amendment of Rule 149 of the Tamil Nadu Co-operative Society Rule 1988. Rule 149 was amended by G.O(Ms).No.212, Co-operation, Food and Consumer Protection (CJI) Department dated 04.07.1995. Based on the amendment, a Model Special Rule was issued with regard to service condition of the employees of the Co-operative Society. Now the Model Special Rule prescribes the certificate in Co-operative Training as an essential qualification. The learned Additional Advocate General submitted that the subjects taught by Annamalai



University are not equivalent to the subjects taught by Co-operative Training Institution. The Post Graduate Diploma Course conducted by Annamalai University did not have the subjects of the Co-operative Training Institution. Therefore, the said Certificate is not equivalent to the Co-operative Management as contemplated in Rule 149 of the Tamil Nadu Co-operative Societies Rules 1988. The learned Additional Advocate General referred to counter and Additional Typed set of papers, wherein, it has been held that the Course of Co-operative Management contains the following subjects:

- 1.Co-operation
- 2.Co-operative Laws
- 3.Financial Accounting and Auditing
- 4.Co-operative Management
- 5.Computer Management and Management Information System.
- 6.Business Development Planning and Policy
- 7.Jewel Appraisal and its Techniques.

10.The Post Graduate Diploma Course conducted by Annamalai University did not have the subjects, like Co-operative Laws, Financial Accounting and Auditing, Business Development Planning and Policy. Therefore, the said Certificate is not equivalent to the Co-operative Management as contemplated in Rule 149. The petitioners have not produced any equivalent certificates or have not filed any reply denying the said contention and stating that the Course conducted by Annamalai University had all the subjects. On the failure of the petitioners to prove that the Post Graduate Diploma in Co-operative Management underwent by the petitioners in Annamalai University, contains all the subjects as taught by the Co-operative Training Institution. The reason given by the respondents for rejection of applications of the petitioners does not warrant any interference by this Court.

11.For the above reasons, these Writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Secretary to Government
Co-operative Food and Consumer Protection Department
St.Fort George
Chennai 600 001



2.The Registrar of Co-operative Societies
Kilpauk
Chennai

3.The Chairman
District Recruitment Bureau of
Co-operative Societies/Joint Registrar of
Co-operative Societies
Kanaka Apartments
Madurai

4.The District Recruitment Bureau
Co-operative Department
Office of the Joint Registrar of Co-operative Societies
2nd Floor, Collectorate Building
Dindigul District 624 004

5.The Registrar of Co-operative Societies
Office of the Registrar of Co-operative Societies
Keelpakkam
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6.The District Recruitment Bureau
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Madurai District.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate SR-98256
+2 CC to M/s.V.O.S. KALAISELVAM, Advocate SR-98120, 98121
+1 CC to M/s.S.KUMAR, Advocate SR-98052
+1 CC to M/s.Special Govt.Pleader, Advocate SR-98821.

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