



WEB COPY

W.P(MD)No.4704 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.4704 of 2015

and

M.P(MD)No.2 of 2015

C.Selvaraj

.. Petitioner

Vs.

1.The Deputy Registrar of Co-op. Socieites,
Nagercoil, Kanyakumari District.

2.The President,
Y-10 Eathamozhi Primary Agricultural
Co-operative Credit Society Ltd.,
Eathamozhi - 629 501,
Kanyakumari District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned direction of the 1st respondent in his proceedings No.Na.Ka.639/2014/ThoVeSa, dated 12.05.2014 and the consequential order of reversion passed by the 2nd respondent in his proceedings Nos.04/2014(I) dated 31.05.2014 and quash the same in so far as it relates to the petitioner and pass such further or other orders.

For Petitioner

: Mr.Krishna Kannan
for Mr.M.E.Ilango

For Respondents

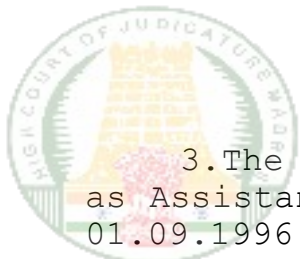
: Mr.S.Dhayalan,
Government Advocate.

ORDER

This writ petition has been filed 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 No.Na.Ka.639/2014/ThoVeSa, dated 12.05.2014 and the consequential order of reversion passed by the 2nd respondent in his proceedings in No.04/2014(I), dated 31.05.2014 and quash the same insofar the petitioner is concerned.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The case of the petitioner is that he was initially appointed as Assistant in the ration shop run by the 2nd respondent society on 01.09.1996 and he was promoted as salesman on 01.07.1997 and again as Clerk on 01.10.2013. The 1st respondent by his impugned proceedings dated 12.05.2014, directed the 2nd respondent to cancel his promotion on the ground that a salesman could be promoted only as a Fertilizer Salesman / Junior Clerk and not as a clerk and also recover the excess pay received by the petitioner and pursuant to the same, the 2nd respondent by his proceedings dated 31.05.2014, has straight away reverted him from the post of Clerk to the post of salesman. The above said impugned proceedings have been passed without giving notice to the petitioner. Hence, this writ petition.

4.The learned counsel for the petitioner submitted that before passing the impugned orders, no notice was issued to the petitioner and no opportunity was given to him for raising his objections and and hence, the impugned orders are liable to be set aside.

5.The learned Government Advocate appearing for the respondents drawing the attention of this Court to the counter affidavits filed on the side of the respondents, submitted that the salesman can be promoted only as fertilizer salesman / junior clerk and since the said post is not vacant in the 2nd respondent society, the 1st respondent, vide his proceedings, dated 12.05.2014, has rightly instructed the 2nd respondent to revert the petitioner and accordingly, the 2nd respondent has passed the impugned proceedings dated 31.05.2014.

6.Perusal of impugned proceedings shows that the same have been passed without issuing any notice to the petitioner. When the matter came up for hearing on 31.03.2015, the learned counsel for the petitioner submitted that even though such an order has been passed on 12.05.2014, till that date, the petitioner is working in the promoted post only and in similar matter challenging the very same impugned order, in W.P(MD)No.9498 of 2014, this Court granted an order of interim stay on 13.08.2014 and taking into consideration of the same, this Court granted an order of status-quo in this writ petition.

7.It is settled law that before passing an order affecting the right of a person, an opportunity should be given to the person concerned. Here, in this case, no such opportunity was granted to the petitioner before passing the impugned proceedings. Considering the fact that the petitioner has been working in the promoted post from 01.10.2013 onwards and the impugned orders of demotion have been passed without issuing any notice to the petitioner, this Court is inclined to quash the same. Accordingly, the impugned direction of the 1st respondent in his proceedings in No.Na.Ka.639/2014/ThoVeSa, dated 12.05.2014 and the consequential



order of reversion passed by the 2nd respondent in his proceedings in No.04/2014(I), dated 31.05.2014, are quashed insofar as the petitioner is concerned. The writ petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (writs)

// True Copy //

Sub Assistant Registrar(CS)

smn

To

1.The Deputy Registrar of Co-op. Societies,
Nagercoil, Kanyakumari District.

2.The President,
Y-10 Eathamozhi Primary Agricultural
Co-operative Credit Society Ltd.,
Eathamozhi - 629 501,
Kanyakumari District.

+1 CC to SPL GP (SR-103605[F] dated 05/12/2019)

+1 CC to Mr.M.E.ILANGO, Advocate (SR-103707[F] dated 05/12/2019)

**ORDER MADE IN
W.P (MD) No. 4704 of 2015
04.12.2019**

VB(17.12.2019) 3P 5C