

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :29.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 16363 of 2013

P.MURUGAN

... Petitioner

- Vs -

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1. The Joint Registrar of Coop. Societies,
Villupuram Region, Villupuram,
Villupuram District.

2. The Special Officer,
Gingee Panchayat Union Employees and
Teachers Coop. Thrift and Credit Society,
Gingee, Villupuram District.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorari Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na. Ka. 5542/2012/Sa.Pa dt 7.5.2013 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all backwages and other benefits.

For Petitioner :Mr.C.Prakasam

For Respondent :Mr.L.P.Shanmugasundaram,Spl.G.P for (Coop)

ORDER

This petition has been filed by the petitioner to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na. Ka. 5542/2012/Sa.Pa dt 7.5.2013 and quash the same and consequently direct the respondents to reinstate the petitioner into service with full backwages and other benefits.

2.The case of the petitioner is that the petitioner was appointed as Clerk in the Devadhanapettai PACCS. While working in the said post, the then President of the Devadhanapettai PACCS obtained resignation letter from the petitioner on 17.2.2001 in a forceful manner and on the same day he was

removed from service pursuant to the said resignation letter. Subsequently he was appointed as clerk in the 2nd respondent society. However, on the Special Officer assuming charge of office in the place of elected Board, the petitioner was terminated from service vide order dated 12.06.2001. Against the said termination, the petitioner approached this Court by filing W.P.No.31964/2002 challenging the termination order and this Court by order dated 29.10.2002 dismissed the writ petition along with batch of writ petitions in W.A.NO.1701/2002. Subsequent to the order passed by this Court, the petitioner filed several representations to the the 2nd respondent, however no orders were passed. Hence once again the petitioner filed WP.NO.48685/2006 praying for regularisation of his service and this Court by order dated 15.12.2006 dismissed the petition directing the 1st respondent to dispose of the written representation dated 14.11.2002 and 15.12.2006. In compliance of this Court's order, the 1st respondent considered the representation of the petitioner and rejected his claim on the ground that he had worked only for 114 days in the 2nd respondent society without considering the past experience in Devadhanampettai PACB. It is further case of the petitioner that in the year 2011 he filed statutory revision u/s 153 of Tamil Nadu Coop. Societies Act, 1983, which was rejected by the 1st respondent on 3.11.2011 on the ground of limitation. Challenging the said impugned order the petitioner filed WP.No.27803 of 2011, which was allowed with a direction to the writ petitioner to represent the revision before the 1st respondent explaining the reason for delay and the 1st respondent was directed to consider the same in accordance with law. Pursuant to the said order, the revision represented by the petitioner was rejected by the 1st respondent by proceedings dated 7.5.2013, which has resulted in the filing of the present writ petition.

3. It is the submission of the learned counsel for the petitioner that though the petitioner has past experience in Devadhanampettai PACB, however, without considering the same, the 1st respondent simply rejected his claim on the ground that he had worked only 114 days in the 2nd respondent society. This clearly shows non-application while passing the impugned order, which requires interference at the hands of this Court.

4. Counter has been filed on behalf of the respondents and learned Special Government Pleader appearing for the respondents, referring to the counter, submitted that the petitioner was appointed as Clerk on daily wages in the year 2001, illegally without his name being sponsored from the Employment Exchange, which is in contravention of Rule 149 (2) of the Tamil Nadu Cooperatives Societies Rules, 1988. Apart from this, at time of appointment the petitioner was not in

possession of the requisite qualification for the post of clerk. Drawing the attention of this Court to G.O.Ms.No.86 Cooperation Food and Consumer Protection Department dated 12.3.2001, which was passed to regularise the back door appointments, it is submitted that the same was challenged before this Court in 2002 4 CTC 385 (1.Justin Vs. Registrar of Cooperative Societies), and this Court, directed the respondents to regularise the services of the persons illegally appointed in cooperative societies. It is the further submission of the learned Special Government Pleader that the direction for regularisation given by this Court pertains to the period 9.7.1980 to 11.3.2001. The appointment of the petitioner was in contravention of the relevant rules and the petitioner having put in only 114 days of service, his services were terminated by the 2nd respondent. The Government order in G.O.86 dated 12.3.2001 is not applicable to the petitioner since the petitioner has not worked the mandatory period of 480 days as prescribed in the G.O., and, therefore, no right accrues on the petitioner seeking regularisation of his employment. Attention of this Court was also drawn to the decision of the Division Bench of this Court, reported in 2007 (5) CTC 369 [R.Radhakrishnan Vs. Deputy Registrar of Cooperative Societies) and it is prayed that the petitioner having not satisfied the requirements, was terminated from service, which does not warrant any interference at the hands of this Court.

5.This Court considered the rival contentions advanced by either side and perused the materials available on record and also perused the decision on which reliance has been placed by the learned Special Government Pleader appearing for the respondents.

6. A perusal of the materials available on record reveal that even in the earlier round of litigation, which culminated in an order being passed by the Division Bench in W.A.No.1701/2002, the very same issue was considered and directions have been issued. It is further evident from the records, which is also not disputed by the petitioner that he was a party in the earlier round of litigation. Once the petitioner, on the same issue, has agitated his right, which did not turn out in his favour, is estopped from once again moving this Court for the very same relief. Barring the facts, which has been tabled before this Court even in the earlier round of litigation, no new facts, which have otherwise come to light have been placed before this Court to hold in favour of the petitioner otherwise. Considering all the materials and also taking into consideration the decision of this Court, as referred to above, by the learned Special Government Pleader, the respondents have passed rejecting the case of the petitioner for regularization. The said impugned order could in no way be termed to be unjustified or unsustainable and in the considered

opinion of this Court, no interference is warranted with the order impugned.

7. For the reasons aforesaid, this writ petition fails and the same is dismissed. However there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Joint Registrar of Coop. Societies,
Villupuram Region, Villupuram,
Villupuram District.

2.The Special Officer,
Gingee Panchayat Union Employees and
Teachers Coop. Thrift and Credit Society,
Gingee, Villupuram District.

+1 cc to M/s.L.P.Shanmugasundaram, Advocate Sr.No. 32178
+1 cc to The Government Pleader(Co-op), Sr.No. 32419

W.P. NO.16363 of 2013

KK(CO)
RMP(27/11/2020)