

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 8689 OF 2013

1. V.Venkatesan
2. R.Srinivasan

... Petitioners

- Vs -

1. The Registrar of Co-op. Societies
No.170, Periyar EVR High Road
Kilpauk, Chennai 600 010.
2. The Deputy Registrar of Co-op.
Societies, Tiruvannamalai Zone
Tiruvannamalai.
3. Tiruvannamalai Agricultural Producers
Co-op. Marketing Society
rep. By its Special Officer
No.167, Theradi Street
Tiruvannamalai, Tiruvannamalai Dt. Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records from the 1st respondent, quash the order of the 1st respondent dated 21.1.11 bearing R.C. No.80143/10 CM2 and consequently direct the respondents to absorb the services of the petitioners in the available vacancy of salesman as per the recommendations of the 2nd respondent made in proceeding Na.Ka. No.7863/10/VH dated 30.11.10 and as per the orders of the Inspector of Labour dated 30.9.02 in Na.Ka.No.E/961/2002.

For Petitioner : Mr. V.Balan Haridas

For Respondents: Mr. L.P.Shanmugasundaram, Spl. GP
for RR-1 and 2
Mr.Ashok Raj for R-3

ORDER

The 1st petitioner joined the services of the 3rd respondent society on 1.8.95, the 2nd petitioner joined the services of the

3rd respondent society on 2.8.2000. While functioning as such without giving room for any complaint, the petitioners were sought to be retrenched on the ground that they had become surplus and, accordingly, they were retrenched vide order dated 30.7.02, which order was challenged before this Court and this Court had granted stay of the said order and by virtue of the said stay order, the petitioners were continuing in service. In the interregnum, the petitioners filed petition before the Inspector of Labour to confirm their services in view of Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act and the said authority, by order dated 30.9.02, confirmed their services.

2. In the meanwhile, proposal emanated from the 2nd respondent for making the services of the petitioners confirmed. The petitioners also submitted representation. In spite of the abovesaid order, as also the proposal of the 2nd respondent and their representation, the services of the petitioners were discontinued against which the petitioners preferred W.P. No.21090/08 and 21093/08 praying to implement the order passed by the Inspector of Labour. This Court, vide order dated 28.8.08 directed the 2nd respondent to consider the representation of the petitioner and pass orders on merits and in accordance with law within a particular time frame. Once again, proposal emanated from the 2nd respondent for the continuance of the services of the petitioners. However, in spite of the same, the 1st respondent passed the impugned order on 21.1.11. Aggrieved by the said order, the present petition has been preferred.

3. Learned counsel appearing for the petitioner while reiterating the submissions as raised in the grounds in support of his plea, laid emphasis that in spite of a positive proposal emanating from the 2nd respondent consecutively, the 1st respondent has not taken note of the same in proper perspective. It is the further submission of the learned counsel for the petitioners that the order passed by the Inspector of Labour has also not been considered in the light of the proposal of the 2nd respondent and, therefore, the impugned order is liable to be interfered with.

4. Learned Special Government Pleader appearing for the official respondents, while sought to sustain the impugned order, however, submitted that this Court, may permit the petitioners to work out their remedies in accordance with law on the basis of the order passed by the Inspector of Labour.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. The facts in issue are not in dispute. Equally, the order passed by the Inspector of Labour is also not in dispute. However, what is more curious in this case is that twice the proposal for continuance of the services of the petitioners has emanated from the 2nd respondent, but equally curious the said proposal has been rejected by the 1st respondent. However, in the present status of the issue, this Court is not inclined to go into the said issue. It is borne out by record that an order has been passed by the Inspector of Labour in favour of the petitioners. That being the position, the course open to the petitioners is to pursue that chain and work out their remedies in accordance with law. In the fitness of things, as the matter stands as projected above, this Court is not inclined to interfere with the order passed by the 1st respondent. However, this Court is of the considered view that liberty may be granted to the petitioners to work out their remedies in a manner known to law in respect of the order passed by the Inspector of Labour.

7. In such view of the matter, while this writ petition is dismissed, however, liberty is granted to the petitioners to work out their remedies in a manner known to law in respect of the order passed by the Inspector of Labour dated 30.9.02. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Registrar of Co-op. Societies
No.170, Periyar EVR High Road
Kilpauk, Chennai 600 010.
2. The Deputy Registrar of Co-op.
Societies, Tiruvannamalai Zone
Tiruvannamalai.

W.P. NO. 8689 OF 2013

mr[co]
srg 04/08/2020