



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.13191 of 2014

and

M.P(MD)Nos.1 and 2 of 2014

V.Rajendran .. Petitioner

Vs.

1.The Registrar of Cooperative Societies,
Kilpauk, Chennai - 600 010.

2.The Joint Registrar of Cooperative Societies,
Dindigul Region, Dindigul.

3.The Deputy Registrar of Cooperative Societies,
Dindigul Region, Dindigul.

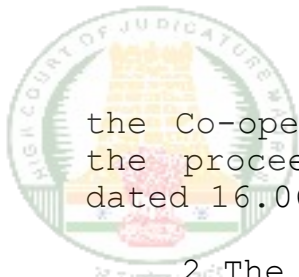
4.The Joint Registrar of Cooperative Societies,
Karur Region, Karur. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent in Rc.No.104778/2013/EM.1, dated 30.06.2014 and the consequential impugned order of the 3rd respondent in Na.Ka.No.4257/2013/Pa.Tho, dated 01.07.2014, quash the same and consequently permit the petitioner herein to work as the Co-operative Sub Registrar in the 4th respondent herein as per the proceedings of the 1st respondent in Rc.No.104778/2013/EM.1, dated 16.06.2014 with seniority and all other service benefits within a reasonable time as may be fixed by this Court and pass such further or other orders.

For Petitioner : Mr.K.Appadurai
For Respondents : Mr.S.Dhayalan,
Government Advocate.

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Rc.No.104778/2013/EM.1, dated 30.06.2014 and the consequential impugned order of the 3rd respondent in Na.Ka.No.4257/2013/Pa.Tho, dated 01.07.2014 and quash the same and consequently permit the petitioner herein to work as



the Co-operative Sub Registrar in the 4th respondent office as per the proceedings of the 1st respondent in Rc.No.104778/2013/EM.1, dated 16.06.2014 with seniority and all other service benefits.

2.The case of the petitioner is that he joined in service as Junior Inspector in the Cooperative Department on 06.01.1986 and he was promoted as Senior Inspector on 25.09.1998. In 2007, without the consent of the petitioner, he was deputed to the Dairy Development Department and he was retained in that department for nearly five years, viz., from 14.03.2007 to 31.07.2013. As per the procedure and rules relating to deputation, the employee concerned shall be deputed to another department only if gives his willingness for deputation for a maximum period of 3 years and even under exceptional circumstances, deputation shall not exceed 3 years, unless prior permission is obtained from Government before expiry of 3 years and such permission has never been obtained. The feeder category for the promotion to the post of Cooperative Sub Registrar, is Senior Inspector. The petitioner is eligible and qualified for promotion to the said post from the year 2011 and if the petitioner would have been relieved from deputation on expiry of three years from the Dairy Development Department in 2010, he would have served in the parent Department from 2010 onwards. Though the petitioner has completed 3 years deputation period, due to impending election for cooperative societies, he made a request to retain him in deputation.

3.According to the petitioner, the Government also issued G.O.Ms.No.155, dated 17.05.2007, stating that the staff of the Cooperative Department in the category of Cooperative Sub Registrar, Senior Inspector and Junior Inspector appointed in the Department of Audit for Milk Cooperative, on deputation should not be allowed to serve not exceeding 3 years unless prior permission from Government is obtained. Despite his deputation was expired in 2010, he was not relieved and the 1st respondent was constrained to send a circular dated 24.01.2014 directing to relieve the staff of the Cooperative Sub Registrar from the Dairy Development Department forthwith. Since, he was not relieved, his name was not included in the list of Senior Inspector fit for promotion to the post of Cooperative Sub Registrar in 2012 panel and on his request his name was included in the next panel of the year 2013 and in the second panel, there were 69 Senior Inspectors and his name was shown in Serial No.7. In the meantime, he was also transferred to his parent department, under the 2nd respondent. While so, the 1st respondent, by proceedings, dated 16.06.2014, issued necessary orders, promoting all 69 Senior Inspectors including him to the post of Cooperative Sub Registrar and posted him to the vacancy at Karur Region. Thereafter, all of a sudden, the 1st respondent passed the impugned order, dated 30.06.2014, cancelling his promotion stating that he has not completed one full year of service in the Parent Department, after relieving from deputation. Against which, the present writ petition



has been filed.

4.The learned counsel for the petitioner submitted that he has been retained in deputation for nearly 5 years viz., from 14.03.2007 to 31.07.2013 without his willingness. Since he was not relieved, his name was not included in the panel for the year 2012 and on his request, his name was included in the panel for the year 2013. After drawing panel as per seniority and granted promotion, cancellation of promotion, is against law. Therefore, the impugned order is liable to be set aside.

5.The learned Government Advocate appearing for the respondents drawing the attention of this Court to the counter affidavit filed by the respondents submitted that that the petitioner did not serve one full year of service in the Parent Department after relieving from deputation and therefore, his promotion was cancelled.

6.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.Perusal of records shows that the petitioner was initially appointed as Junior Inspector in the Cooperative Department on 06.01.1986 and on 25.09.1998, he was promoted as Senior Inspector and he had been deputed to the Dairy Development Department and employed there for nearly 5 years, viz., 14.03.2007 to 31.07.2013, which were not disputed. The petitioner returned back to the Parent Department on 01.08.2013. The promotion order has been passed on 16.06.2014. In the impugned order, dated 30.06.2014, cancelling his promotion, is passed stating that the petitioner did not complete one full year of service in the parent department, which cannot be accepted and the said order has been passed without any justification and also without any notice to the petitioner. The Special Rules for the Tamil Nadu Cooperative Subordinate Service, specially indicate that the feeder category for promotion to the post of Cooperative Sub Registrar is Senior Inspector and therefore, the promotion given to the petitioner is in order. The petitioner has become eligible for promotion in the year 2011. The petitioner is entitled for promotion atleast from 2012, i.e., the date on which his juniors were promoted. But, only on account of retaining him on deputation, he lost the opportunity of promotion. The petitioner was promoted on 16.06.2014. In my opinion, for the reasons stated above, the cancellation order passed by the 1st respondent and the consequent order passed by the 3rd respondent are liable to be set aside. Accordingly, the impugned order of the 1st respondent in Rc.NO.104778/2013/EM.1, dated 30.06.2014 and the consequential impugned order of the 3rd respondent in Na.Ka.No.4257/2013/Pa.Tho, dated 01.07.2014, are set aside and the respondents are directed to permit the petitioner to work as Cooperative Sub Registrar, based on the Promotion Order, dated 16.06.2014 with seniority and service



W.P(MD)No.13191 of 2014

benefits and such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

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// True Copy //

/ /2020
Sub Assistant Registrar(CS)

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To

- 1.The Registrar of Cooperative Societies,
Kilpauk, Chennai - 600 010.
- 2.The Joint Registrar of Cooperative Societies,
Dindigul Region, Dindigul.
- 3.The Deputy Registrar of Cooperative Societies,
Dindigul Region, Dindigul.
- 4.The Joint Registrar of Cooperative Societies,
Karur Region, Karur.

ORDER MADE IN
W.P (MD) No.13191 of 2014
17.02.2020

SMA/16/03/2020/4P/5C