



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2020
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.14930 of 2014
and
M.P. (MD) .No.2 of 2014

J.Maria Senthil Appar

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Tuckalay,
Kanyakumari District.

2.The President,
Reethapuram Primary Agricultural
Co-operative Credit Society Ltd.,
No.Y-239,
Reethapuram - 629 159,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying 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 Na.Ka.183/13 Tho.Ve.Sa., dated 27.05.2014 and the consequential orders of reversion passed by the 2nd respondent in his proceedings dated 19.08.2014 and quash the same as illegal.

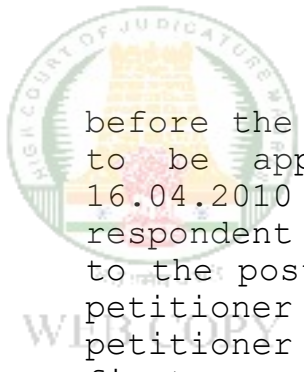
For petitioner : Mr.M.Jerin Mathev

For respondents : Mr.S.Dhalayan,
Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the order passed by the first respondent dated 27.05.2014 and the consequential order dated 19.08.2014 passed by the second respondent, reverting the petitioner from the post of Clerk to the original post of Salesman.

2.The learned counsel for the petitioner submitted that in the year 1998, the petitioner was appointed as Salesman in the second respondent Society and his service was subsequently regularised on 02.01.2000. The petitioner has filed a suit in O.S.No.225 of 2012



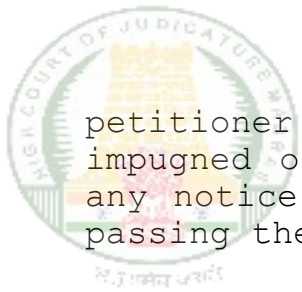
before the District Munsif Court, Eraniel to declare him as eligible to be appointed as Clerk in the 2nd respondent society from 16.04.2010 and also for permanent injunction restraining the 2nd respondent from directly or indirectly appointing any other person to the post of Clerk. Pending adjudication of the said suit, the petitioner was promoted as Clerk on 29.10.2013 and hence, the petitioner withdrew his suit. While so, on the instruction of the first respondent, the Sub-Registrar, Kurunthankodu conducted a field inspection in the Society and submitted his report to the first respondent. Based on the said report, the first respondent has directed the 2nd respondent to pass a resolution reverting the petitioner from the post of Clerk to the original post of Salesman and accordingly, the 2nd respondent has passed a resolution and reverted the petitioner to his original post. As the respondents have passed the impugned orders, without providing any notice and an opportunity to the petitioner, the petitioner has come up with this writ petition. He would further submit that the petitioner has been working in the promoted post from 29.10.2013 to 19.08.2014 and while so, in violation of principles of natural justice, the respondents have passed impugned orders and hence, the same may be set aside. Thus, he prayed to allow this Writ Petition.

3. The learned Government Advocate appearing for the respondents submitted that as the petitioner has been illegally given promotion to the post of Clerk, the first respondent has directed the second respondent to revert the petitioner to his original post. The petitioner cannot claim promotion as a matter of right. Therefore, this petition may be dismissed.

4. Heard the learned counsel for both sides and perused the materials available on record.

5. A perusal of record shows that the petitioner was appointed in the year 1998 as Salesman and his service in the post of Salesman was regularised and after about 12 years of service, on 29.10.2013 he was promoted as Clerk by the 2nd respondent Society and the petitioner served in the promoted post till the impugned order passed by the 2nd respondent ie., till 19.08.2014. The impugned order dated 27.05.2014 shows that only based on the report of the Sub Registrar, Kurunthankodu, dated 25.04.2014, the first respondent has directed the 2nd respondent to cancel the illegal promotion given to the petitioner and to submit their explanation. Based on the said order, the 2nd respondent has passed the consequential reversion order dated 19.08.2014, that too without even notice to the petitioner.

6. Though the writ petition has been filed in the year 2014, till date no counter affidavit has been filed by the respondents. The respondents have not produced the documents based on which the first respondent stated to have come to the conclusion that the



petitioner was given illegal promotion. Further, a perusal of the impugned order shows that the petitioner has not been served with any notice and also documents stated in the impugned order, before passing the impugned orders.

7. As the promotion has been given to the petitioner after about 12 years of service by the 2nd respondent and the petitioner has also served about 10 months in the promoted post, before passing the order of reversion, he should have been given an opportunity. But, that has not been done in this case. As there is a clear violation of principles of natural justice, this Court is inclined to set aside the impugned order passed by the first respondent as well as the consequential order passed by the 2nd respondent.

8. At this juncture, it is stated that based on the interim order granted by this Court, the petitioner has been continuing in the post of Clerk.

9. In view of the above, the impugned orders passed by the respondents are set aside and the respondents are directed to give continuity of service to the petitioner in the post of Clerk and pay eligible service and monetary benefits, if any, within a period of eight weeks from the date of receipt of a copy of this order.

10. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Assistant Registrar

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/ /2020

Sub Assistant Registrar

gcg

To

1.The Deputy Registrar of Cooperative Societies,
Tuckalay,
Kanyakumari District.

+1 CC to M/s.SPL.GP (SR-3898[F] dated 30/01/2020)

+1 CC to M/s.M.E.ILANGO, Advocate (SR-3948[F] dated 30/01/2020)

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AP(16.03.2020) 3P 4C

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