



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2020

CORAM:

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**

W.P. (MD) No.9491 of 2014

and

MP. (MD) Nos.2 & 3 of 2014

WEB COPY

S.Krishnan

:Petitioner

Vs

1. The Deputy Registrar of Co-operative Societies  
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 filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned direction of the first respondent in his proceedings No.Na.Ka.547/2013/ThoVeSa(2) dated 28.04.2014 and the consequential orders of reversion passed by the second respondent in his proceedings Nos.04/2014(I) and 04/2014(iii) dated 31.05.2014 respectively in so far as it relates to the petitioner and quash the same.

For Petitioner : Mr. M.E.Ilango  
For Respondents : For R1 - Mr.S.Dhayalan  
Government Advocate  
For R2 - Mr.S.Kumar

### **O R D E R**

This writ petition is filed to call for the records relating to the impugned direction of the first respondent in his proceedings No.Na.Ka.547/2013/ThoVeSa(2) dated 28.04.2014 and the consequential orders of reversion passed by the second respondent in his proceedings Nos.04/2014(I) and 04/2014(iii) dated 31.05.2014 respectively and quash the same.

2. Heard both sides and perused the documents available on record.

3. The case of the petitioner is that he was appointed as salesman in the second respondent society on 08.09.1999 and his services have also been regularised. The second respondent society has got sanctioned cadre strength. Though there were seniors to the

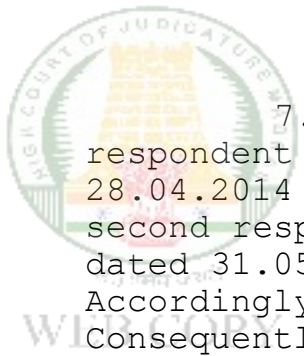


petitioner in the post of Salesman, since they have relinquished their promotion, considering the petitioner's merit and ability, he was first promoted as Senior clerk on 10.08.2012 and further promoted as Secretary on 30.10.2013. Subsequent inspection conducted by the Co-operative Sub Registrar has submitted a report stating that the petitioner has been promoted overlooking the seniority. The petitioner was not furnished with the said report. It is further case of the petitioner that without giving any opportunity or notice to the petitioner, the first respondent has issued the impugned proceedings dated 28.04.2014, directing the second respondent to revert the petitioner to his original post of salesman and has also directed the second respondent to recover the excess pay received by the petitioner in the higher posts. Hence, the petitioner has come up with this Writ Petition.

4. The learned counsel for the petitioner submitted that the authority concerned has failed to note that the so called seniors have relinquished their right of promotion and that the clerk of the society could not be considered for promotion as he was facing disciplinary proceedings. It is further submitted that as the reversion order was passed without notice, and on the strength of the interim stay granted by this Court, the petitioner is still continuing in the post of Secretary. Finally, the learned counsel for the petitioner relied upon the order of this Court in W.P.(MD) No.4704 of 2015 dated 04.12.2019 and prayed to quash the impugned order.

5. The learned Government Advocate appearing for the respondent submitted in his Counter affidavit that as per the cadre strength, the salesman can be promoted only to the post of fertilizer salesman, which is the immediate higher post and as on 09.08.2012, the post of Fertilizer salesman was not vacant and hence the petitioner was not at all eligible for any promotion. The promotions given to the petitioner is illegal. Further, the learned Government Advocate has added that an interim stay of four weeks has been granted on the ground that no notice was given to the petitioner. The learned Government Advocate has justified that the promotions given to the petitioner were highly illegal and hence no notice was given. Therefore, there is no need to interfere with the impugned order.

6. Perusal of the impugned proceedings shows that the same has been passed without issuing any notice to the petitioner. 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 present promoted post from 30.10.2013 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.



7. Accordingly, the impugned direction of the second respondent in his proceedings No.Na.Ka.547/2013/ThoVeSa(2) dated 28.04.2014 and the consequential orders of reversion passed by the second respondent in his proceedings Nos.04/2014(I) and 04/2014(iii) dated 31.05.2014 are quashed insofar as the petitioner is concerned. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Deputy Registrar of Co-operative 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 Mr.M.E.ELANGO, Advocate ( SR-2635[F] dated 23/01/2020 )

+1 CC to SPL GP ( SR-2809[F] dated 24/01/2020 )

**W.P. (MD) No.9491 of 2014 and**

**MP. (MD) Nos.2 & 3 of 2014**

**23.01.2020**

VB(07.02.2020) 3P 5C