



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. [MD] No. 4945 of 2017

and

W.M.P. (MD) No. 3981 of 2017

WEB COPY

P. Sivaneshwaran

... Petitioner

Vs.

1. The Registrar,
Co-operative Societies,
170, Periyar E.V.R. Road,
Keelbak, Chennai.

2. The Joint Registrar/Controller of Examination,
Tamilnadu Co-op Society State Recruitment Bureau,
170, Periyar E.V.R. Road,
Keelbak, Chennai.

3. The President,
Tirunelveli District Co-op Bank Ltd.,
Tirunelveli,
Tirunelveli District.

(R-3 is amended as per the order of this Court
dated 15.12.2020 in W.M.P(MD) No.15682 of 2020)

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorari and Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ga.No.37610/2016/BSN(2) dated 31.10.2016 and quash the same and consequently direct the respondents to provide employment to the petitioner at third respondent society in light of acquisition of post Graduate Diploma in Co-operative Management at Annamalai University which is recognized by UGC and disburse all service and monetary benefits.

For Petitioner : Mr.S.Chellapandian

For R-1 and R-2 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

For R-3 : Ms.N.Shanthi Priya

O R D E R

This Writ petition has been filed to quash the impugned order of the second respondent in Na.Ga.No.37610/2016/BSN(2), dated 31.10.2016 and consequently, to direct the respondents to provide employment to the petitioner at third respondent Society in the



light of acquisition of post Graduate Diploma in Co-operative Management at Annamalai University, which is recognized by UGC and disburse all service and monetary benefits.

2.The learned counsel for the petitioner would submit that the second respondent herein has issued a notification dated 23.11.2012, whereby, inviting applications for the post of Assistant. After the said notification, the petitioner applied for the post of Assistant and subsequently, he got selected and the second respondent issued an allotment order, vide order dated 30.03.2015. He would further submit that as per the notification, dated 23.11.2012, the respondents have to issue appointment order to the petitioner to the post of Assistant in the third respondent Co-operative Society, in such event, in case, if the petitioner has not acquired the Diploma in Co-operative Management, he has to acquire the said Diploma Course within a period of two years from the Co-operative Management Training Institute run by the Co-operative Department by way of Distance Education. As per the notification, even if anybody has completed the said course in regular, the same will be the sufficient qualification for the post of Assistant in the Co-operative Department.

3.The learned counsel appearing for the petitioner would further submit that the petitioner had obtained the Post Graduate Diploma Certificate in Co-operative Management from the Annamalai University for the successful completion of the course in the examination held in the month of May 2016. However, subsequent to the selection to the post of Assistant, in spite of issuing appointment order, he has insisted the petitioner to sign an agreement to acquire the Diploma in Co-operative Management at any one of the Co-operative Management Institute run by the Co-operative Department by referring SLP.No.17977/2014, dated 28.11.2014. He would further submit that in the allotment order, dated 30.03.2015, they have referred the Judgment of the Hon'ble Supreme Court and incorporated a clause for signing the agreement in 20 Rupees non judicial stamp paper to ensure, in this event, if anybody failed to complete the Diploma in Co-operative Training at the Co-operative Management Institute run by the Co-operative Department in one year, the selection of the said candidate to the present post shall stand cancelled without any notice.

4. Now, the main challenge in the present writ petition is that when the notification was issued by the second respondent categorically stating that after the appointment, if any candidate fails to acquire the Diploma in Co-operative Training, they have to acquire the said qualification within a period of two years from the date of appointment.

5.In this regard, the Hon'ble Supreme Court in the case of **SAT**
383 Tamil Nadu State Primary Agricultural Co-op Bank Employees Ass
<https://hccwvces.courts.gov.in/hccwvces>



v. K.B.N.Karthika and Others in **SLP.No.17977 of 2014**, it has been stated as follows:-

"It is not possible for us to accept the instant contention of the learned counsel for the petitioner. Co-operative training, as depicted in 1988 Rules, is not a condition precedent for selection. It is only a condition precedent for appointment. Thus viewed, it is open for the authorities to make a selection requiring the selected candidates to undergo training and to appoint them on the successful completion of the prescribed training."

6.By referring the above order, the learned counsel for the petitioner would submit that the as per the Hon'ble Supreme Court order, in case, if the second respondent intend to provide any training, they can insist the selected candidates to undergo training and for that purpose, they can fix a time limit also. In the present case, it is not the case of the training, but it is the requirement of the petitioner to acquire the Diploma qualification. Therefore, he contended that the order of the Hon'ble Supreme Court has been misconstrued and thus, the impugned order is liable to be set aside and the respondents should be directed to issue appointment order.

7.On the other hand, the learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the petitioner was invited to sign an affidavit agreeing to acquire the Diploma in Co-operative Management Training run by the Co-operative Department. Therefore, he cannot go back on that. He would submit that consequent to the order passed by the Hon'ble Supreme Court in the above referred SLP, the respondents have incorporated the relevant provision in the allotment order and to mandate the candidates to undergo Diploma in Co-operative Management Training for those who have not completed the said course in the Co-operative Management Institute run by the Co-operative Department and to complete the same within a period of one years. Therefore, he contended that it is not contrary to the notification. Further he fairly admitted the fact that in the notification, it has been clearly stated that two years time has been granted from the date of issuance of appointment order for the candidates, who have not completed the Co-operative training and they have to acquire the Diploma in Co-operating Training Management run by the Co-operative Department within the stipulated time of two years. He would further submit that the second respondent has rightly rejected the certificate of the petitioner obtained from Annamalai University. Therefore, he pleaded for dismissal.

8.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2 and perused the materials placed on record.



9.It is an admitted fact that the the petitioner got selected for the post of Assistant and the allotment order was issued on 30.03.2015. As stated in the allotment order, the petitioner had executed a bond in non judicial stamp paper worth Rs.20/-, whereby agreed by the petitioner to complete the Co-operative Training in any one of the Co-Operative Management Institute run by the Co-operative Department within a period of one year. As per the allotment order, only after completion of the Diploma in Co-operative Management Training, the appointment order will be issued.

10.On perusal of the order of the Hon'ble Supreme court in SLP.No.17977 of 2014, the view of the Hon'ble Supreme Court was that it is open for the authorities to make a selection requiring the selected candidates to undergo training and to appoint them on the successful completion of the prescribed training, which means that the respondents intended to sent the selected candidates for any training, they can do so. In the present case, it is not the question of training. But it is the question of acquiring the required qualification in Diploma in Co-operative Training. For the said purpose, the clear rule was already made and it was published in the notification dated 23.11.2012. It is clear in the said notification and it was also admitted by both sides and this Court has also concur with the same that any of the selected candidates who have not acquired Diploma in Co-operative Management Training run by the Co-operative Department, they have to acquire the said qualification within a period of two years from the date of issue of appointment order.

11.In view of the above, by virtue of misinterpreting the order of the Hon'ble Supreme Court, the second respondent has issued the allotment order and also entered an agreement, as if that the order has been passed by the Hon'ble Supreme Court is applicable to the present issue, whereas, the Hon'ble Supreme Court has clearly observed that it will be only for the provision of training and thereafter acquiring the qualification is different. Acquiring the qualification shall be considered for the purpose of eligibility, whereas, the training will come only after acquiring the prescribed qualification and the selection. Now, in the present case, the petitioner was only selected and he has to acquire the required qualification as stated in the notification. In the meantime, as observed by the Hon'ble Supreme Court, the respondents have not conducted any training programme for the selected candidates. It is only misconstrued by the respondents, as if the training is nothing but acquiring the Diploma in Co-operative Management Training and this Court is not in agreement with such interpretation by the second respondent.

12.Further, one more issue that has been raised for consideration is as to whether the Diploma certificate obtained by the petitioner from the Annamalai University by way of distance



education can be considered as the prescribed qualification, as per the notification, dated 23.11.2012. In the said notification, they have clearly mentioned that the Diploma Certificate should be obtained from the Co-operative Training Institute run by the Co-operative Department alone. Therefore, this Court is of the firm view that the certificate acquired by the petitioner is not sufficient as prescribed in the notification, dated 23.11.2020.

13.In light of the above submissions, the impugned order dated 31.10.2016 is set aside. Further, as viewed by the Hon'ble Supreme Court in the above judgment, before issuing any appointment order if the respondents intend to provide any training to the candidates, they can provide such training and decision regarding the same shall be taken within a period of four weeks from the date of receipt of a copy of this order. Subsequently, if they have come to the conclusion that they are not intending to conduct any special training as viewed by the Hon'ble Supreme Court, the second respondent shall issue the appointment order within a period four weeks thereafter. After issuance of the appointment order, the petitioner shall acquire the training within a period of two years as stated in the notification. It is made clear that if the petitioner is unable to acquire the Diploma in Co-operative Training at the Co-operative Training Management Institute run by the Co-operative Department within a period of two years, his appointment shall stand cancelled automatically.

14.In the result, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

cp

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 cc to Mr.S.CHELLAPANDIAN ,Advocate, SR No.25809

W.P.[MD]No.4945 of 2017
15.12.2020

MK (CO)

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