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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.11144 of 2009

1 R.SRINIVASAN
D.NO.16/A, VALLALAR STREET,
MIN NAGAR, KANCHIPURAM TOWN,
KANCHIPURAM DISTRICT. ... PETITIONER

Vs.

- 1 THE SECRETARY TO GOVERNMENT,
GOVT. OF TAMIL NADU,
CO-OPERATION FOOD AND CONSUMER
PROTECTION (C.P.2) DEPARTMENT,
FORT ST. GEORGE, CHENNAI.
- 2 THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, KANCHIPURAM REGION
M.M.AVENUE, KANCHIPURAM TOWN,
KANCHIPURAM DISTRICT.
- 3 THE MANAGEMENT OF THE BIG KANCHIPURAM
URBAN CO-OPERATIVE TOWN BANK LTD.,
REP. BY ITS SPECIAL OFFICER, KANCHIPURAM.
- 4 R.THANIGAINATHAN
S/O A.RATHINAVEL,
34.B PUTHUPALAYAM STREET, KANDIPURAM-631 502.
- 5 P.ELANGO
S/O S.G.PERUMAL,
42-A, APPARVO STREET, KANCHIPURAM-631502.
- 6 M.ANANDAN
S/O MUNUSWAMY,
55-B, KAILASANATHAR KOIL STREET, KANCHIPURAM- 631502



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THIRUNAVUKKARASU
S/O KUMARASAMY,
31.C.DAMALUR STREET,
KANCHEEPURAM-631502.

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THIRU.S.V.SIVAKUMAR
S/O VEDAGIRI,
42-B KRISHNAN STREET,
PILLAIYARPALAYAM,
KANCHIPURAM-631502.

...

RESPONDENTS

(R-4 to R-8 impleaded vide order, dated 3.11.2009)

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records from the file of the 1st respondent relating to the order dated 27.2.2009 passed in G.O. (Permanent) No.19 of the Co-operation Food and Consumer Protection (CP2) Department and quash the same and further direct the IIIrd respondent management to promote the petitioner to the post of Junior Officer on the basis of the seniority list w.e. from 8.4.1982 with all attendant benefits

For Petitioner : Mr.B.Haribabu

For Respondent No.1 : Mr.P.Anandakumar, G.A.

For Respondent No. 2 : Mr.K.Surendran, A.G.P. (Co-op)

For Respondent No.3 : Mr.L.P.Shanmugasundaram

For Respondent No.8 : Mr.V.Stalin for
M/s.Row & Reddy

For Respondents 4 to 7: No appearance

ORDER

According to the petitioner, petitioner joined as Machine Operator/Cashier on 24.6.1976 in the third respondent bank on temporary basis. The petitioner completed Co-operative training in the year 1979. The third respondent bank promoted its employees based on the seniority as per its Special Bye-law 2(4) (2) relating service conditions of the Bank by passing resolution in the Generalbody Meeting on 31.12.1980 to provide



promotion to higher posts only on merits. According to the petitioner, based on the aforesaid bylaw, the petitioner's name was not placed before his juniors in the seniority list for consideration of promotion to the post of Junior Officer. It is further submitted that resolution passed by the third respondent was rejected by the Deputy Registrar and therefore, promotion shall be made based on seniority by taking into account the date of joining service i.e. 24.6.1976. Without considering the said request made by the petitioner, the respondent has placed the petitioner below the said juniors in the seniority list. According to the petitioner, petitioner preferred revision before the Revisional authority and the Revisional Authority has not properly considered his claim and rejected the revision. Aggrieved by the same, the petitioner has preferred the present writ petition challenging the order passed by the Revisional Authority.

2. According to the learned counsel appearing for the petitioner, the respondent ought to have included the petitioner's name in the seniority list above the juniors who was appointed in the year 1977, 1978 respectively. They are also parties/respondents in the present writ petition. Therefore, as per the by-law, the respondent has to place the petitioner as per the date of his initial appointment in the respondent bank. Therefore, the order passed by the Revisional Authority is liable to be set aside and consequently, direct the respondents to give notional promotion to the petitioner on par with respondents 4 to 8 being promoted in the year 1982.

3. Counter affidavit has been filed by the third respondent. In the counter affidavit, in paragraph 16, it is stated that the Revisional Authority has considered the claim of the petitioner and after verifying the records found that initial appointment of the petitioner on 24.6.1976 is irregular appointment and subsequently, the petitioner service was regularised with effect from 21.7.1979 and therefore, the petitioner is not entitled for placing him in the seniority list above the persons appointed in the year 1976, 1977. The petitioner service has been regularised with effect from 21.7.1979. Thereafter only, he is entitled for promotion to the post of Junior Officer as per the seniority. Further, in the counter affidavit, it is stated that the private respondents said to be juniors to the petitioner viz., Mr.R.Thanigainathan joined on 21.11.1976, Mr.P.Elango, joined on 6.11.1976, Mr.M.Anandan, joined on 24.11.1977, Mr.K.Thirunavukarasu, joined on 27.1.1977, Mr. S.V.Sivakumar, joined on 16.2.1977 and Mr.R.Srinivasan, petitioner herein joined on 21.7.1979. Thus, petitioner service



was regularised with effect from 21.7.1979. Therefore, the petitioner has no right to claim seniority on par with the aforesaid respondents and the petitioner obtained qualification for promotion to the post of Junior Officer on 21.7.1979.

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4. Heard the rival submissions of the parties and perused the materials available on record.

5. The Revisional Authority has taken into account the aforesaid factors into consideration and passed the detailed order. The regular appointment of the petitioner in the third respondent bank commence from 21.7.1979. The service rendered by the petitioner during the period 1976 to 1979 cannot be taken into consideration for seniority as the said period was treated as irregular appointment. The petitioner is eligible for promotion to the post of Junior Officer with effect from 21.7.1979 i.e. from the date on which the petitioner qualified his Co-operative training which is essential for promotion. Therefore, there is no warrants to interfere with the order passed by the Revisional Authority.

6. In view of the above, the writ petition stands dismissed. However, it is open to the petitioner to approach the respondent for notional promotion, if any junior of the petitioner was promoted after 1979. No Costs.

Sd/-

Assistant Registrar(CJ conf)

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Sub Assistant Registrar

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To

- 1 THE SECRETARY TO GOVERNMENT,
GOVT. OF TAMIL NADU,
CO-OPERATION FOOD AND CONSUMER PROTECTION (C.P.2) DEPT.,
FORT ST. GEORGE, CHENNAI.
- 2 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
KANCHIPURAM REGION, M.M.AVENUE,
KANCHIPURAM TOWN, KANCHIPURAM DISTRICT.
- 3 THE MANAGEMENT OF THE BIG KANCHIPURAM
URBAN CO-OPERATIVE TOWN BANK LTD.,
REP. BY ITS SPECIAL OFFICER, KANCHIPURAM.



+2cc to M/s.Row & Reddy, Advocate SR.No.66075,65458

+1cc to Mr.B.Haribabu, Advocate SR.No.64783

+1cc to the Government Pleader, SR.No.65807

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CB(22/12/2021)