

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5262 of 2021 and

WMP No.5825 of 2021

K.Tamilselvi

... Petitioner

-vs-

1. The Joint Registrar of Cooperative Societies,
Coimbatore Regions, Coimbatore,
Coimbatore District.
2. The Deputy Registrar of Cooperative Societies,
Pollachi Circle, Pollachi,
Coimbatore District.
3. The President,
K.394, Chinna Kammalapatty Primary
Agricultural Cooperative Credit Society,
Chinna Kammalapatty, Sulur taluk,
Coimbatore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to regularize the petitioner's service as Sales Woman in the 3rd respondent society by giving retrospective effect from the date of appointment.

For Petitioner : Mr.C.Prakasam

For R1 & R2 : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

This Writ petition is filed, seeking a direction to the respondents to regularize the petitioner's service as Sales Woman in the 3rd respondent society by giving retrospective effect from the date of appointment.

2. Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader takes notice for respondents 1 and 2. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. It is the case of the petitioner that the petitioner was initially appointed as Clerk in the 3rd respondent Society on 12.02.2001 and terminated from service in the month of May, 2001

without conducting any enquiry. It is further stated that she again reinstated in service in the year 2005 as Sales Woman by fixing time scale of pay. It is the grievance of the petitioner that even though she has been serving in the 3rd respondent Society for the past 19 years, she has not been regularized till date and that she cannot get promotion to the next avenue of promotion 'Clerk'.

4. The learned counsel for the petitioner also relied upon the Judgment of this Court made in W.P.No.21440 of 2015 dated 19.02.2021 in support of his case. In this connection, the petitioner has submitted a representation dated 17.12.2020 before the respondents to regularize her service as Sales Woman in the 3rd respondent Society, but, the same is yet to be disposed of by the respondents. Learned counsel submitted that it would suffice, if the said representation made by the petitioner is directed to be considered and disposed of by the respondents on merits.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) In case any proposal is received by the 1st respondent from the 3rd respondent, with regard to regularization of the service of the petitioner, the 1st respondent is directed to consider the representation preferred by the petitioner dated 17.12.2020, in the light of the Judgment of this Court made in W.P.No.21440 of 2015 dated 19.02.2021, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 17.12.2020 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vum

To

1. The Joint Registrar of Cooperative Societies,
Coimbatore Regions, Coimbatore,
Coimbatore District.
2. The Deputy Registrar of Cooperative Societies,
Pollachi Circle, Pollachi,
Coimbatore District.

+1cc to Mr.C.Prakasam, Advocate Sr.No.14688
+1cc to Special Government Pleader Sr.No.14411

W.P.No.5262 of 2021

AKB(CO)
NR 19/04/2021