

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7766 of 2021 and  
WMP No.8301 of 2021

1. P.Murugesan
  2. T.Jayanthi
  3. D.Rajkumar
  4. J.Soosainathan
  5. N.Baskaran
  6. S.Senthilnathan
  7. P.Chandrasekar
  8. D.Ranganathan
- ... Petitioners

-vs-

1. The Secretary to Government Coop.  
Food and Consumer  
Protection Department,  
Fort St. George, Chennai - 600 009.
  2. The Registrar of Cooperative Societies,  
N.V.N.Maligai, E.V.R.Salai,  
Kilpauk,  
chennai - 600 010.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2<sup>nd</sup> respondent to consider the representations, dated 23.12.2019 for the promotion to the post of Junior Assistant with regard to 1<sup>st</sup> to 7<sup>th</sup> petitioners and Sales Man with regard to 8<sup>th</sup> petitioner with consequential seniority and all other service and monetary benefits.

For Petitioners: M/s.S.Aparna

For Respondents: Mr.P.V.Selvakumar, (for R1)  
Additional Government Pleader  
Mr.L.P.Shanmugasundaram, (for R2)  
Special Government Pleader  
(Co-op)

## O R D E R

This Writ petition is filed, seeking a direction to the 2<sup>nd</sup> respondent to consider the representation, dated 23.12.2019 for the promotion to the post of Junior Assistant with regard to 1<sup>st</sup> to 7<sup>th</sup> petitioners and Sales Man with regard to 8<sup>th</sup> petitioner with consequential seniority and all other service and monetary benefits.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for R1 and Mr.L.P.Shanmugasundaram, learned Special Government Pleader (Co-op) takes notice for R2. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. Learned counsel for the petitioners submitted that though the issue is covered by the order dated 19.02.2021 passed by this Court in W.P.No.21440 of 2020, batch of cases, the aforesaid order related to regularization of petitioners therein and the petitioners herein seek for promotion to the post of Junior Assistant and Salesman by considering their long standing service. She further submitted that the case of the petitioners may be considered for promotion in the light of the judgment of the Apex Court in the case of Uma Devi's case, reported in 2006 (4) SCC 1, as they have been working continuously for more than 10 years.

4. Though learned counsel for the petitioners relied upon two judgments in support of her submissions, she is unable to produce a copy of the same before this Court for perusal. Moreover, the petitioners, except arraying the Registrar of Cooperative Societies as a party respondent, have not made the actual employer, who has provided them employment, as party to the lis. Though the writ petition is liable to be dismissed on the aforesaid grounds, considering the fact that they seek for a limited relief of consideration of their representations, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2<sup>nd</sup> respondent herein to consider the representations preferred by the petitioners dated 23.12.2019, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioners 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 petitioners are unable to appear for personal hearing, the petitioners are 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 petitioners can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioners fail to appear or file a written submission in time, the 2<sup>nd</sup> respondent shall pass orders based on the available records and the petitioners, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioners;

iv) The petitioners shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 23.12.2019 and this order, to the 2<sup>nd</sup> respondent forthwith;

v) The 2<sup>nd</sup> respondent is directed to communicate the decision taken on the representations, to the petitioners 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 petitioners to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioners, 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(L.A)

//True Copy//

सत्यमेव जयते  
Sub Assistant Registrar

vum

To

1. The Secretary to Government Coop.  
Food and Consumer  
Protection Department,  
Fort St. George,  
Chennai - 600 009.

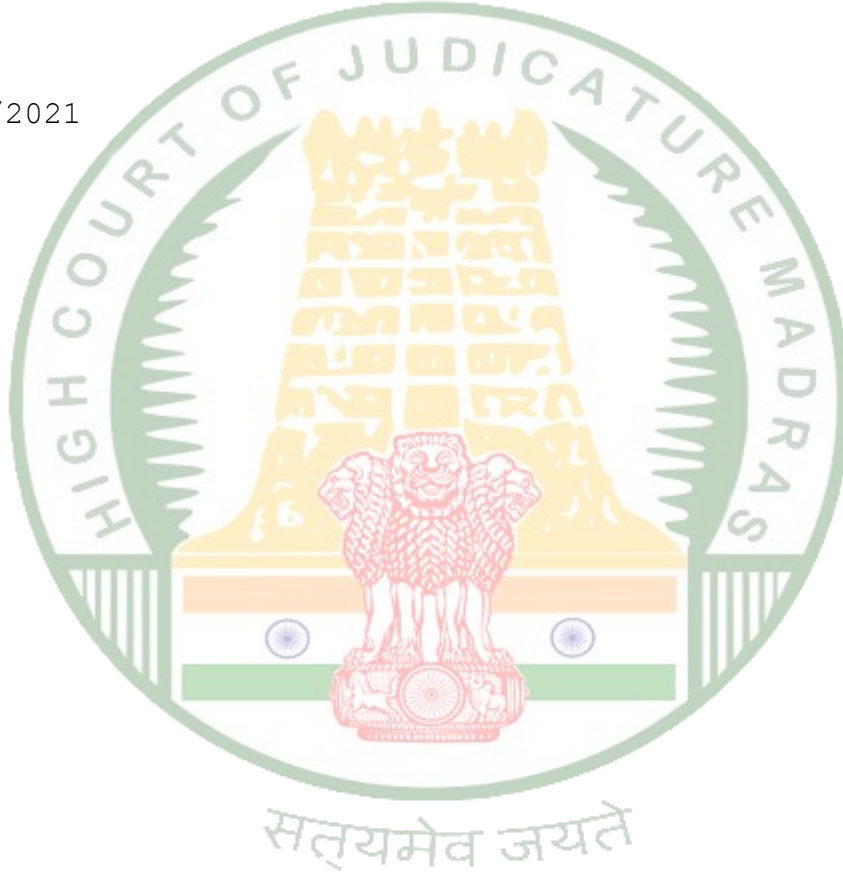
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2. The Registrar of Cooperative Societies,  
N.V.N.Maligai, E.V.R.Salai,  
Kilpauk, chennai - 600 010.

+1cc to M/s.S.Aparna, Advocate Sr.19625  
+1cc to the Government Pleader Sr.19715  
+1cc to the Special Government Pleader Sr.20142

W.P.No.7766 of 2021

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