



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.6066 of 2011

and

M.P. (MD) .No.2 of 2011

S.Kala

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
Kilpauk,
Chennai.

2.The Joint Registrar of Co-operative Societies,
Sivagangai Division,
Sivagangai.

3.The Special Officer,
NN -564 Mithiravayal Primary Agricultural Co-operative Bank,
Karaikudi Taluk,
Sivagangai District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in his proceedings in Na.Ka.No.2632/2010 ஈபு, dated 13.07.2010, confirming the order passed by the third respondent in his proceedings in Na.Ka.No.1 of 2003 த.அ. dated 21.01.2003 and quash the same as illegal and consequently to direct the respondents to reinstate the petitioner in service as Junior Clerk forthwith with all benefits thereon.

For Petitioner	: Mr.Mohammed Imran for M/s. Ajmal Associates
For R1 & R2	: Mr.K.P.Narayana Kumar Special Government Pleader
For R3	: Mr.D.Muruganantham

O R D E R

This writ petition has been filed challenging the order passed by the second respondent, dated 13.07.2010, confirming the order passed by the third respondent, dated 21.01.2003 and to quash the same as illegal and consequently, direct the respondents to reinstate the petitioner in service as Junior Clerk forthwith, with



all benefits thereon.

2. The case of the petitioner is that the third respondent is the Primary Agricultural Co-operative Bank registered under the Tamil Nadu Co-operative Societies Act, 1961. The petitioner has completed Diploma in Co-operative Training in the year 1997 and she passed M.Com., in the year 2002. Subsequently, she registered her name in District Employment Exchange, Sivagangai. While so, the third respondent called for two posts of Junior Clerk. Accordingly, the name of the petitioner as well as the one other name were sponsored for the said posts. Thereafter, the petitioner appeared for the interview conducted on 08.05.2000 and she secured second place and one post was given to one Mrs.C.Kavitha. The petitioner was appointed only on 03.08.2001 and she worked more than 480 days. However, the third respondent, by the proceedings dated 21.01.2003, terminated the petitioner from service, alleging that the petitioner has been appointed against the bye laws of the Co-operative Societies Rules. Further, the petitioner's appointment was made without any prior approval of the respondent Department and her appointment was made beyond the cadre strength fixed by the Resolution passed on 04.06.2000. Challenging the same, the petitioner has filed a writ petition before this Court in W.P.No.3160 of 2003 and the same was dismissed on 12.11.2008. However, liberty was given to the petitioner to proceed further. Thereafter, the petitioner has filed an application under Section 153 of the Tamil Nadu Co-operative Societies Act and the same was returned, on the ground that the application has not been filed within a period of 30 days. Again, the petitioner has filed an application before the second respondent for review and the same was dismissed by the impugned order of the second respondent, dated 13.07.2010. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the name of the petitioner was sponsored to the post of Junior Clerk and she participated in the interview and secured second rank. From the waiting list, the petitioner was appointed by the then Special Officer, which is perfectly valid and two sanctioned posts are available and in the said posts, the petitioner was appointed, which cannot be terminated, without following due process of law and prior to termination, no show cause notice was issued to the petitioner and on the sole ground, the impugned order has to be set aside and he prayed for allowing of this writ petition.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that there was no mention about the waiting list prepared for appointment of the petitioner in any of the Bank records. Thiru R.Kalaiselvan, who was working as Co-operative Sub Registrar / Manager of the Bank, was appointed as Special Officer of the respondent Bank and he was fully aware of the



facts and appointed the petitioner fraudulently. Thereafter, disciplinary action has been initiated against the said R.Kalaiselvan and he was punished with stoppage of increment for six months, without cumulative effect. Hence, he prayed for dismissal of this writ petition.

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5. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 2, learned counsel appearing for the third respondent and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was not selected to the post of Junior Clerk, on the date of interview conducted on 08.05.2000 and the claim of the petitioner is that she was placed under waiting list. However, a perusal of the impugned order reveals that the cadre strength of the Society is only two posts and already one person is working and hence, only one post is available. To prove the above said cadre strength, the petitioner has failed to produce any material to establish that there are two Junior Clerk posts vacant. Hence, this Court has no hesitation to arrive at a conclusion that in the non - sanctioned post, the petitioner was appointed. Further, the petitioner has not produced any document to show that her appointment was approved. Without getting any approval, contrary to the Rules, the petitioner was appointed by the then Special Officer. Hence, the claim made by the petitioner is misconceived. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

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/ /2021

Sub Assistant Registrar(CS)

To

1.The Registrar of Co-operative Societies,
Kilpauk,
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<https://hcservices.sivagangai.nic.in/hcservices>



+1 CC to M/s.SPL GP (SR-14805[F] dated 31/03/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-14692[F] dated
31/03/2021)

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KB(24.06.2021) 4P 6C