



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.1437 of 2013

H.Sundara Doss

... Petitioner

vs.

1.The Joint Registrar of Cooperative Societies,
Kanyakumari District, Nagercoil.

2.The Deputy Registrar of Cooperative Societies,
Thuckalai.

3.The Special Officer,
Meakka Mandapam,
Primary Agricultural Cooperative Society Limited,
Y-231, Mekka Mandapam Post,
Kalkulam Taluk, Kanyakumari District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 2 and 3 herein to pay the petitioner's salary for the period from 24.11.2008 to 06.03.2011.

For Petitioner	: Mr.P.Arun Jeyatram
For R1 and 2	: Mr.M.Linga Durai
	Government Advocate
For R3	:Mr.G.Manivannan

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondents 1 and 2 to pay the salary of the petitioner for the period from 24.11.2008 to 06.03.2011.

2.Heard Mr.P.Arun Jeyatram, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents 1 and 2 and Mr.G.Manivannan, learned Counsel for the third respondent.

3.The petitioner was originally appointed as Sales Assistant on 01.06.1981 in the third respondent Society. The petitioner was working as Clerk from 1996 and his services were regularised in the post of Clerk with effect from 27.02.1996. It is the case of the petitioner that one Mr.Reinis was appointed as in charge of Secretary of the third respondent and that the said Mr.Reinis retired from service on 31.03.2006. It is submitted by the petitioner that in the place of Mr.Reinis, he was appointed as in charge Secretary with effect from 23.03.2006. The petitioner submitted further that he was deputed to Paraicode Primary Agricultural Cooperative Society and posted as Salesman and later allowed to work as Clerk in the third respondent Society.



4.It is further stated by the petitioner that while he was working as a Clerk, the second respondent once again reverted the petitioner as Clerk and posted him to a far away from place on foreign service in Tallakulam Eranial Primary Agricultural Cooperative Society.

5.The petitioner filed a Writ Petition in W.P.(MD)No.12011 of 2008 before this Court to quash the order of Deputy Registrar, Cooperative Society, Thuckalai, dated 24.11.2008, transferring the petitioner and the petitioner has also obtained an order of status quo. The Writ Petition filed by the petitioner was allowed by this Court by order, dated 14.02.2011 and the order transferring the petitioner was set aside.

6.The grievance of the petitioner is that despite this Court quashed the order, dated 12.02.2008 and the consequential order, dated 24.11.2008, the wages to the petitioner for the period from 06.03.2011 is not paid. The petitioner admitted that he did not report duty before the Society to which he was transferred.

7.It is not the case of the petitioner that he was not allowed to work in the third respondent Society. In the counter affidavit, it is specifically stated that the petitioner on receipt of the transfer order and relieving order, did not join in the transferred place. It is further stated that the petitioner did not work during the period from 24.03.2008 to 06.03.2011 either in the third respondent Society or in the transferred place. To the specific statement found in the counter affidavit, the petitioner has not chosen to reply to the counter affidavit. When the petitioner has not pleaded that he was prevented from joining duty in the third respondent on account of transfer, this Court is unable to find the grievance of the petitioner as genuine. The petitioner himself obtained an interim order from this Court and hence, he is not supposed to leave the third respondent. Having failed to work for the period during which he was supposed to work in the third respondent Society, this Court is unable to grant any relief to the petitioner, as he was out of employment. It is not automatic that respondents should pay salary to the petitioner, despite the fact that he did not work either in the third respondent society or in the place to which he was transferred.

8.In view of the above factual position and for want of merits, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar(CS)



To

1.The Joint Registrar of Cooperative Societies,
Kanyakumari District, Nagercoil.

2.The Deputy Registrar of Cooperative Societies,
Thuckalai.

+1 CC to M/s.GP (SR-25478[F] dated 06/08/2021)

W.P.(MD) No.1437 of 2013
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MGJ(25.08.2021) 3P 4C