



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.8298 of 2021

and

W.M.P(MD)Nos.6280 & 6281 of 2021

K.Palanimurugan

... Petitioner

vs.

- 1.The Registrar of Co-operative Societies (Housing),
Tamil Nadu Co-operative Housing Federation,
2nd Floor, No.48, Retherathan Road,
Vepperi,
Chennai - 7.
- 2.The Deputy Registrar of Co-operative Societies (Housing),
Office of the Deputy Registrar of
Co-operative Societies (Housing),
Tirunelveli Region,
Singam Buildings,
Tiruvanandapuram Road,
Tirunelveli.
- 3.The President,
Thoothukudi Taluk Co-operative Housing Society Limited,
(TNV-HSG.33),
No.2, Chidambara Nagar Main Road,
Thoothukudi - 628 008.
- 4.The President,
EE-289, Harvey's Staff Co-operative Building Society Limited,
No.106-J-58, Millarpuram,
Backside to Vikasa School,
Thoothukudi - 628 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the impugned order passed by the second respondent under Na.Ka.No.2999/2017 E, dated 17.02.2021 and its consequential impugned order passed by the second respondent under Na.Ka.No.2999/2017 E, dated 19.02.2021 and to quash the same as illegal and further direct the respondents 1 and 2 to pass orders to permanently absorb the petitioner in the fourth respondent



Society as Supervisor.

For Petitioner
For Respondents

: Mr.K.R.Laxman
: Mr.P.Subbaraj
Government Advocate

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ORDER

The petitioner has filed the present Writ Petition, to quash the impugned order passed by the second respondent, dated 17.02.2021 and its consequential impugned order, dated 19.02.2021 and to direct the respondents 1 and 2 to pass orders to permanently absorb the petitioner in the fourth respondent Society as Supervisor.

2.According to the petitioner, while he was working as Supervisor in the third respondent Society, deputed to the fourth respondent Society for a period of three years. After joining in the fourth respondent Society, according to the petitioner, he is discharging his duties as Secretary-in-charge in the fourth respondent Society. Before expiry of three years on deputation, the fourth respondent Society by representation, dated 09.10.2020, requested the first respondent to retain the petitioner as Secretary-in-charge in the fourth respondent Society itself. Further, according to the petitioner, the third respondent Society is in financial difficulties and is unable to pay the salary to its employees. One of its employees, namely P.Andi, permanently posted to TNEB Employees Building Society, Tirunelveli.

3.The learned counsel appearing for the petitioner submitted that the petitioner has to meet out the medical expenses of his daughter and if his deputation is not extended, he will not be getting his salary and will not be able to meet out the day-to-day expenses of his family. The learned counsel appearing for the petitioner further contended that the fourth respondent has given representation, dated 09.10.2010 to the first respondent through the second respondent to retain the petitioner in the fourth respondent Society. The first respondent has not passed any order. While so, the second respondent passed the impugned orders, directing the fourth respondent to relieve the petitioner to join in the third respondent Society, without considering the financial status of the third respondent Society and rejected the request of the fourth respondent Society to retain the petitioner in the fourth respondent Society. The learned counsel appearing for the petitioner further submitted that the impugned orders passed by the second respondent are contrary to G.O(Ms)No.71, Housing and Urban Development (HCS-2) Department, dated 26.02.2021 and prayed for setting aside the impugned orders and allowing the Writ



4.The learned Government Advocate appearing for the respondents submitted that as per Rule 149(2-A) of the Tamil Nadu Co-operative Societies Rules, 1988 an employee of the Society can be deputed to another Society only for a maximum period of three years. There is no provision in the Act and the Rules for extending the deputation beyond three years. In view of the same, the impugned orders passed by the second respondent are legal and valid and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6.From the materials available on record, it is seen that the petitioner was deputed to the fourth respondent Society as Secretary-in-charge by the first respondent, by proceedings, dated 07.02.2018 for a period of three years. Before expiry of three years, the third respondent gave a representation to the second respondent, dated 21.02.2018, to retain the petitioner in the fourth respondent Society itself. The second respondent has not passed any order on the representation. On the other hand, the second respondent referring to letter of the fourth respondent, dated 04.02.2021, directed the fourth respondent to relieve the petitioner to join in the third respondent Society. As per amended Rule 149(2-A) of the Tamil Nadu Co-operative Societies Rules, 1988, an employee of one Society can be deputed only for three years. In view of said Rule, the petitioner is not entitled to the relief sought for in the Writ Petition. At the same time, in the affidavit filed in support of the Writ Petition, the petitioner has stated that the third respondent Society is in financial difficulty and is unable to pay the salary of its employees and one of the employees viz., P.Andi, was permanently posted to TNEB Employees Building Society, Tirunelveli, which is not denied by the respondents. Therefore, liberty is given to the petitioner to make a representation requesting the first respondent to depute him to any other Society or permanently transfer him to any other Society, within a period of two weeks from the date of receipt of a copy of this order. If such representation is given by the petitioner, the first respondent is directed to consider the same and pass orders, taking into consideration G.O(Ms)No.71, Housing and Urban Development (HCS-2) Department, dated 26.02.2021, within a period of four weeks thereafter. Till such process is completed by the first respondent, the petitioner has to be retained in the fourth respondent Society.



7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

ps

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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+1 CC to M/s.SPL GP (SR-20182[F] dated 24/06/2021)

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-20263[F] dated 25/06/2021)

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**W.P (MD) No .8298 of 2021
23.06.2021**

AS (05.07.2021) 5P 7C