



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.384 of 2019

M.Mathan

... Petitioner

Vs.

1.The Joint Registrar of Co-operative
Societies,
Office of the Joint Registrar of
Co-operative Societies,
Madurai.

2.The Deputy Registrar of Co-operative
Societies, Usilampatti Circle,
Situated at Thiurmangalam,
Madurai District.

3.The Managing Director,
M.U. 8 Usilampatti Taluk,
Agricultural Producers Co-operative
Marketing Society Ltd.,
Usilampatti, Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.1048/2015/Vi.Sa dated 22.10.2018 and quash the same and consequently direct the respondents to appoint the petitioner in any suitable post under the compassionate grounds due to death of petitioner's father based on his qualification.

For Petitioner : Mr.P.Mahendra Pandi

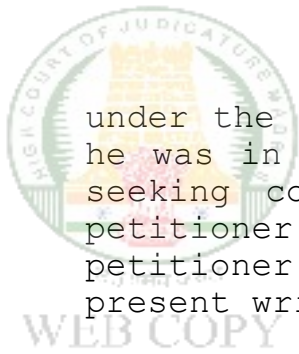
For Respondents : Mr.A.K.Manickam,
Standing Counsel for State for R1 and R2.

Mr.J.Gunaseelan Muthiah for R3

ORDER

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 22.10.2018, passed by the second respondent and to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds.

2. The case of the petitioner is that his father was working



under the third respondent Society and he died on 24.05.2011, while he was in service. Thereafter, the petitioner made an application seeking compassionate appointment. However, the request of the petitioner was rejected on the ground that the service of the petitioner's father was not regularised. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the respondents ought to have regularised the services of the father of the petitioner on completion of 480 days of service as per the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. Further as per the letter issued by the Registrar of Cooperative Societies, dated 13.11.2006, it is the duty of the respondents to regularise the service of the father of the petitioner. Therefore, the petitioner's request for compassionate appointment cannot be rejected on the above ground. Hence, the impugned order is liable to be set aside.

4. The learned Standing Counsel for Government appearing for the respondents 1 and 2 would submit that considering the fact that the service of the petitioner's father was not regularised and also the decision of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh and Others Vs. Amit Shrivastava** reported in **(2020) 10 SCC**, wherein the Hon'ble Supreme Court distinguished the difference between a permanent employee and a regular employee, the second respondent has rightly passed the impugned order. Hence, the impugned order does not warrant interference.

5. In **State of Madhya Pradesh and Others Vs. Amit Shrivastava** reported in **(2020) 10 SCC**, the Hon'ble Supreme Court held as follows:

"17. In our view, the aforesaid plea misses the point of distinction between a work-charged employee, a permanent employee and a regular employee. The late father of the respondent was undoubtedly a work-charged employee and it is nobody's case that he has not been paid out of work-charged/contingency fund. He attained the status of a permanent employee on account of having completed 15 years of service, which entitled him to certain benefits including pension and krammonati. This will, however, not ipso facto give him the status of a regular employee."

6. In view of the above facts and circumstances of the case on hand and the settled legal position, the second respondent has rightly considered the petitioner's application for compassionate appointment and therefore, the impugned order passed by the second respondent does not warrant any interference of this Court.



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7. In fine, the writ petition fails and it is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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

- 1.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-operative Societies,
Madurai.
- 2.The Deputy Registrar of Co-operative Societies, Usilampatti Circle,
Situated at Thiurmangalam,
Madurai District.
- 3.The Managing Director,
M.U. 8 Usilampatti Taluk,
Agricultural Producers Co-operative Marketing Society Ltd.,
Usilampatti, Madurai District.

+1 CC to M/s.GP (SR-25875[F] dated 11/08/2021)

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RD(19.08.2021) 3P 5C