



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND**

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A(MD)No.1739 of 2021
and
C.M.P(MD)No.7379 of 2021

Kumar Jayasingh

... Appellant/Petitioner

Vs.

1.The Deputy Registrar Cum Managing Director,
Kanyakumari District Co-operative Credit Bank,
Nagercoil, Agasteeswaram Taluk,
Kanyakumari District.

2.Kanyakumari District Co-operative Credit Bank,
Nagercoil, Agasteeswaram Taluk,
Represented through its President,
Mr.Sampath Chandra

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 02.03.2021 in W.P(MD)No.21468 of 2016 and allow the writ petition.

Prayer in WP(MD). 21468/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st Respondent to consider the representation of petitioner for promotion dated 08.07.2016.

For Appellant

: Mr.S.Balamurugan

For R-1

: Mr.D.Shanmugaraja Sethupathi

JUDGMENT

(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)

The writ appeal has been filed by the appellant/writ petitioner challenging order of the learned Single Judge made in W.P(MD) No.21468 of 2016, dated 02.03.2021.

2. The appellant/writ petitioner has sought for a Mandamus
<https://hcservices.ecourts.gov.in/hcservices/>



directing the first respondent bank to consider his representation dated 18.07.2016 for promotion.

3. Admittedly, the appellant had committed misdeeds causing loss to the second respondent bank and there were criminal proceedings and Departmental proceedings against him. Surcharge proceedings were also initiated and it is under Challenge in W.P(MD) No.18799 of 2013 and still, it is pending. Earlier also, the appellant had made a request for his promotion and that was rejected by the first respondent on 30.06.2014. The appellant is now seeking direction on the strength of the information obtained by him under the Right to Information Act, dated 31.10.2014 wherein it is stated that when there is a surcharge proceedings or criminal cases pending against any employee, there is nothing stated in the Act or the Rules about their promotion. Merely because, the Act or the Rules is silent about promotion for those suffering from criminal or surcharge proceedings, it will not automatically entitle them for promotion. When the surcharge proceedings are pending against the appellant for his misdeeds for having caused loss to the bank, it would not be appropriate even to consider the promotion of the appellant by the first respondent. The Writ Court had rightly rejected the request of the appellant/writ petitioner as there is no obligation to issue a direction to the authorities to consider his promotion.

4. We also see no merits in the case in the light of the above facts. Therefore, the Writ Appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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 Deputy Registrar Cum Managing Director,
Kanyakumari District Co-operative Credit Bank,
Nagercoil, Agasteeswaram Taluk,
Kanyakumari District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.Kanyakumari District Co-operative Credit Bank,
Nagercoil, Agasteeswaram Taluk,
Represented through its President,
Mr.Sampath Chandra .

+1 CC to M/s.SPL.GP (SR-33938[F] dated 10/11/2021)

+1 CC to M/s.S. BALAMURUGAN, Advocate (SR-34218[F] dated 11/11/2021)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-34040[F] dated 11/11/2021)

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NA(CO)

KB(19.11.2021) 3P 6C