



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.6111 of 2014

and

M.P. (MD)No.2 of 2014

and

M.P. (MD)No.1 of 2015

WEB COPY

M.Muthupandi

... Petitioner

vs..

1.The Joint Registrar of Cooperative Societies,
O/o Joint Registrar of Cooperative Societies,
Ramanathapuram Collectorate,
Ramanathapuram.

2.The Deputy Registrar of Cooperative Societies,
O/o The Deputy Registrar of Cooperative Societies,
Paramakudi, Ramanathapuram District.

3.The Secretary,
Q 1232 Sayalkudi Primary
Agricultural Cooperative Credit Society,
Sayalkudi,
Ramanathapuram District.

... Respondents/
Respondents 1 to 3

4.The President,
Q 1232 Sayalkudi Primary
Agricultural Cooperative Credit Society,
Sayalkudi,
Ramanathapuram District.

... 4th Respondent /3rd Party

(R4 is impleaded vide Court Order dated 02.12.2021
in MP (MD)No.1/2015 in WP (MD)No.6111 of 2014 by SSYJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings made in Na.Ka.No.5602/2002 Sa Pa , dated 18.10.2005 issued by the second respondent confirmed in Revision Petition No.15/2008, dated 22.09.2008 and Review Petition No.3/2012, dated 19.06.2013, passed by the first respondent and quash the same and consequently, direct the respondents to reinstate the petitioner into service with continuity of service along with all attendant benefits.

For Petitioner : Mr.P.R.Prithvi Raj

For Respondents : Mr.R.Ragavendran

Government Advocate (Civil side)



O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings, dated 18.10.2005, confirmed in Revision Petition No.15/2008, dated 22.09.2008 and Review Petition No.3/2012, dated 19.06.2013 and consequently, direct the respondents to reinstate the petitioner into service with continuity of service along with all attendant benefits.

2. The petitioner was appointed as Clerk in the third respondent Society through a Resolution, dated 18.01.1996, on temporary basis with a consolidated pay of Rs.750/- (Rupees Seven Hundred and Fifty only) per month. The petitioner has completed his Co-operative training and got the Certificate on 31.07.1995. The petitioner got his Diploma in Cooperation in February 1996. The petitioner was appointed as Clerk on regular basis through Resolution, dated 25.03.1997. The issue of appointment of Clerk in the Bank without adequate qualifications was put to challenge before this Court, in Writ Appeal No.2501 of 2001 and 2502 of 2001 and this Court, vide order, dated 24.10.2002, directed the respondents to take steps to remove the employees, who had illegally appointed against the cadre strength between 09.07.1980 to 11.03.2001. Under the guise of the order, the petitioner was dismissed from service by the second respondent, vide order, dated 18.10.2005, alleging that the petitioner was not having Co-operative Training Certificate at the time of appointment, i.e., on 18.01.1996.

3. The respondent has issued notice on 30.09.2005 directing the petitioner submit an explanation within 13.10.2005. Since the petitioner has not submitted any explanation within 13.10.2005, the respondent has passed an order dismissing the petitioner from service vide order dated 17 / 18.10.2005. The said impugned order, dated 17 / 18.10.2005, was put to challenge in Revision Petition No.15/2008 and that was dismissed on 22.09.2008. Thereafter, the Review Petition No.03/2012 was filed and the same was dismissed on 19.06.2013.

4. The second respondent has filed a counter affidavit stating that the petitioner was not sponsored through Employment Exchange and was not appointed through proper committee constituted under the Tamil Nadu Co-operative Societies Act and therefore, the very appointment of the petitioner is illegal, non-est and against the provisions of law. The petitioner has not completed Co-operative Training and the appointment without educational qualification is illegal.

5. Heard Mr.P.R.Prithvi Raj, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents.



6. The learned counsel appearing for the petitioner submitted that the petitioner was appointed as Clerk on 18.01.1996 on temporary basis. Admittedly, on the date of appointment, the petitioner was not possessing Co-operative Training Certificate. The petitioner acquired Co-operative Training Certificate in the month of February 1996 and the petitioner was appointed on regular basis on 25.03.1997. When the petitioner was appointed on regular basis, the petitioner was having Co-operative Training Certificate. Therefore, the claim of the petitioner is that he was not possessing Co-operative Training Certificate is incorrect.

7. On perusing the Review Petition, it seen that it is a non-speaking order. Moreover, the respondents without application of mind have passed an order. As rightly pointed out by the learned counsel for the petitioner, the petitioner was having the Co-operative Training Certificate, when the petitioner was appointed on regular basis on 25.03.1997. Therefore, the impugned order, dated 18.10.2005, is set side and consequential orders passed in revision and review also setaside. The respondents are directed to reinstate the petitioner with continuity of service. The petitioner is not entitled to monetary benefits on the basis of "No Work and No Pay" principle. The respondents 3 and 4 are directed to implement this order within four weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

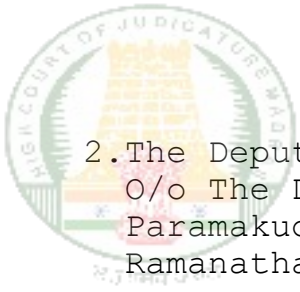
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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant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

To

1.The Joint Registrar of Cooperative Societies,
O/o Joint Registrar of Cooperative Societies,
Ramanathapuram Collectorate, Ramanathapuram.

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



2.The Deputy Registrar of Cooperative Societies,
O/o The Deputy Registrar of Cooperative Societies,
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4.The President,
Q 1232 Sayalkudi Primary
Agricultural Cooperative Credit Society,
Sayalkudi,
Ramanathapuram District.

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-37518[F] dated 06/12/2021)

+1 CC to M/s.SPL GP (SR-37195[F] dated 03/12/2021)

Order made in
W.P. (MD)No.6111 of 2014
02.12.2021
(1/2)

KMV (CO)
GC(12.01.2022) 4P 7C