



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.7073 of 2017

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P.Thangavelu

... Petitioner

Vs.

1.The Accountant General (A & E),
Thenampet,
Chennai.

2.The Secretary,
Co-operation, Food and Distribution Department,
Chief Secretariat,
Chennai -9.

3.The Registrar of Co-operative Societies,
No.170, Periyar E.V.R. High Road,
Kilpauk,
Chennai 10.

4.The Secretary,
Tamil Nadu Public Service Commission,
Paris,
Chennai.

5.The Joint Registrar,
Office of the Joint Registrar,
Co-operative Societies,
Perambalur District.

6.The Joint Registrar,
Office of the Joint Registrar,
Co-operative Societies,
Trichy.

...

Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first and second respondents to regularize the service of the petitioner for the period between 09.10.1990 to 29.11.2007 and consequently grant all the pensionary and other monetary benefits for the period from the date of appointment till the date of superannuation of the petitioner.

For Petitioner

: Mr.N.Anandakumar



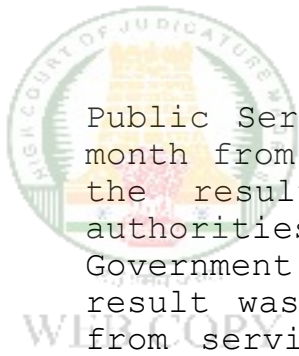
For R1 : Mr.P.Gunasekaran
For R2 : Mr.M.Muthugeethayan
Special Government Pleader
For R3, R5 & R6 : Mr.P.Mahendran
Additional Government Pleader
For R4 : Mr.K.K.Senthil
Standing counsel

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O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus directing the first and second respondents to regularise the service of the petitioner for the period between 09.10.1990 to 29.11.2007 and consequently, grant all the pensionary and other monetary benefits to the petitioner from the date of appointment till the date of superannuation.

2. The case of the petitioner is that he was appointed as Junior Inspector / Special Officer on temporary basis, in the year 1985, under 10 (A) (1) of the Tamil Nadu State and Subordinate Service Rules and he was posted at Kulumani. In the mean while, G.O. (Ms).No.271 (Co-operation) Food and Consumer Protection Department, dated 10.11.1988, has been issued, in which it is stipulated that all the temporary Junior Inspectors of Co-operative Societies working in the Co-operative Department under the control of Registrar of Co-operative Societies should appear before the Tamil Nadu Public Service Commission for Selection through Special Qualifying Examination of Higher Secondary Standard prescribed for Group - III Services and as such, the Deputy Registrar, vide his Letter dated 07.12.1988, directed the petitioner to participate in the Special Qualifying Examination. Accordingly, the petitioner has applied for the Special Qualifying Examination through the sixth respondent. But, on 06.10.1989, the Tamil Nadu Public Service Commission has rejected the petitioner's application, on the ground that the Registrar of Co-operative Societies certified that the petitioner's work and conduct are not satisfactory. However, the petitioner has made several representations. Thereafter, the fourth respondent provisionally admitted the petitioner for the examination to be conducted by the TNPSC and the petitioner has also participated in the Special Qualifying Examination and thereafter, the petitioner's result was withheld by the fourth respondent, vide his Memorandum, dated 09.11.1989. Subsequently, the fourth respondent has rejected the petitioner's application, on 23.03.1990 and the Deputy Registrar of Co-operative Societies, Karur has ousted the petitioner from service for want of vacancy with effect from 09.10.1990. Challenging the said order, the petitioner has filed an application in O.A.No.3728 of 1994 before the State Administrative Tribunal and the Tribunal has allowed the application. As against which, the State has preferred a writ petition before this Court in W.P.(MD).No.3441 of 2006. This Court, by order dated 19.12.2006, dismissed the writ petition and directed the Secretary, Tamil Nadu



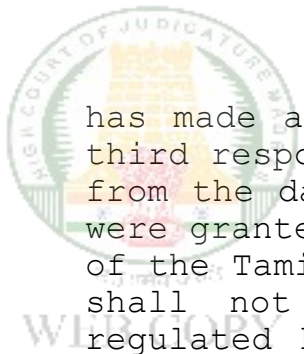
Public Service Commission, Chennai, to publish the result within a month from the date of receipt of a copy of that order and based on the result, the Registrar of Co-operative Societies and the authorities concerned shall take action in accordance with the said Government Order, dated 10.11.1988. Thereafter, the petitioner's result was published and he joined duty on 05.12.2007. He retired from service on 31.01.2013. After retirement, the petitioner has filed the present writ petition for regularisation of service for the period between 09.10.1990 to 29.11.2007 and consequently, grant all the pensionary and other monetary benefits to the petitioner.

3. The learned counsel appearing for the petitioner would submit that though the petitioner entered into service in the year 1985, the Deputy Registrar of Co-operative Societies, Karur has ousted the petitioner from service for want of vacancy with effect from 09.10.1990. However, the fact remains that a Special Qualifying Examination was conducted by the TNPSC and the petitioner was not allowed to participate in the examination on the ground that the Registrar of Co-operative Societies certified that the petitioner's work and conduct are not satisfactory. After legal battle, the petitioner has succeeded and wrote the examination. Even thereafter, the result was not published and on the direction of this Court, the result was published and thereafter, the petitioner was re-appointed. Hence, the non-employment period from 1990 to 2007 is not on the fault of the petitioner and is absolutely on the part of the respondent Society. Hence, he is entitled for all monetary benefits. The similar issue was considered by this Court in W.P.No.15439 of 2014. Based on the above said order, the State Government has issued G.O.(Ms.).No.56, dated 11.05.2020 and similarly placed persons were granted benefits. Accordingly, he prayed for allowing of this writ petition.

4. The learned Special Government Pleader appearing for the second respondent would submit that the petitioner was initially appointed as Junior Inspector / Special Officer, in the year 1985, under Rule 10 (A) (1) of the Tamil Nadu State and Subordinate Service Rules and he was ousted from service in the year 1990 and after completing the litigations, the petitioner was re-appointed in the year 2007. Admittedly, the petitioner has not worked from 1990 to 2007. Further, the petitioner's service was regularised by the Registrar of Co-operative Societies from 05.12.2007. Without challenging the said order of regularisation, filing the present writ petition before this Court is not maintainable.

5. Heard the learned counsel for the petitioner, learned counsels appearing for the respondents and perused the materials available on record.

6. As rightly pointed out by the learned Special Government Pleader appearing for the second respondent that the petitioner has
<https://hsevisereportsforinmservices> service in the year 2013 and thereafter, the petitioner



has made a representation for regularisation of service before the third respondent and as per his request, his service was regularised from the date of re-appointment ie., on 05.12.2007 and the benefits were granted. Further, it is relevant to note that as per Section 12 of the Tamil Nadu Pension Rules, the service of a Government servant shall not qualify for pension unless his duties and pay are regulated by the Government or under conditions determined by the Government. In the present case, already the petitioner's service was regulated by the proceedings of the Registrar of Co-operative Societies, dated 28.07.2014 and without challenging the said order of regularisation, filing the present writ petition is not maintainable. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

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To

- 1.The Accountant General (A & E),
Thenampet,
Chennai.
- 2.The Secretary,
Co-operation, Food and Distribution Department,
Chief Secretariat,
Chennai -9.
- 3.The Registrar of Co-operative Societies,
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Office of the Joint Registrar,
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Co-operative Societies,
Trichy.

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-12090[F] dated 18/03/2021)

+1 CC to M/s.SPL GP (SR-12264[F] dated 18/03/2021)

+1 CC to M/s.N.ANANDA KUMAR, Advocate (SR-12275[F] dated 18/03/2021)

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GS (28.06.2021) 5P 9C