



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.21468 of 2016

and

W.M.P. (MD) .No.15339 of 2016

Kumar Jayasingh

... 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

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to consider the representation of the petitioner for promotion, dated 18.07.2016.

For Petitioner : Mr.N.Ramkumar

For R1 : Mr.D.Shanmugaraja Sethupathi

For R2 : Mr.A.Karthik

Government Advocate



This writ petition has been filed for issuance of a Writ of Mandamus directing the first respondent to consider the representation of the petitioner for promotion, dated 18.07.2016.

2. The case of the petitioner is that he joined as Assistant in the second respondent Bank in the year 1998. Thereafter, he was given the duty of the Cashier. While the petitioner was in service, the Manager viz., Saraswathy committed misdeeds causing loss to the Bank to the tune of Rs.38,14,506/-, for which, the respondent Bank initiated criminal proceedings as well as departmental proceeding against Saraswathy and the petitioner and surcharge proceedings also initiated against the petitioner. In the surcharge proceedings, the petitioner has also been held liable jointly and severally to the tune of Rs.6,02,121/-. Against the said surcharge proceedings, the petitioner has filed an appeal before the learned District Judge, Nagercoil in C.M.A.(CS).No.25 of 2008. The learned District Judge confirmed the surcharge proceedings. Against the said order, the petitioner has filed a writ petition in W.P.(MD)No.18799 of 2013 before this Court and the same is pending. While so, the first respondent released the seniority list periodically. In the list dated 25.05.2006, the petitioner's name was shown in Serial No.38 and on 26.07.2011, another seniority list was released and in the list, the petitioner's name was shown in Serial No.2. Thereafter, several promotions were given promoting the Assistants as Assistant Manager. However, the petitioner was not given any promotion. Therefore, the petitioner has made a representation to the first respondent on 07.02.2011, requesting to give promotion to the petitioner and the said representation was not considered. Hence, the petitioner has filed a writ petition in W.P.(MD).No.1963 of 2011 and this Court, by order dated 20.02.2011, directed the first respondent to consider the representation of the petitioner, dated 07.02.2011, in accordance with law. For the non-compliance of the order, the petitioner has filed a contempt petition before this Court and after three years, the first respondent sent a reply dated 30.06.2014, stating that the request of the petitioner cannot be considered as there is a pendency of surcharge proceedings and criminal case. Even after rejecting his request, several juniors were granted promotion. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that this Court may issue a direction to the first respondent to consider the petitioner's representation dated 07.02.2011, for promotion, without referring to the criminal case and departmental proceedings as expeditiously as possible.

4. The learned Government Advocate appearing for the second respondent would submit that the surcharge proceedings and the criminal proceedings are pending against the petitioner and when the



entitled for promotion.

5. Considering the facts and circumstances of the case, the facts in the present case are not in dispute. Admittedly, the criminal as well as the surcharge proceedings are pending against the petitioner and the issue is pending before this Court in W.P. (MD)No.18799 of 2013. Further, it appears that the petitioner's earlier request for promotion was rejected by the first respondent, on 30.06.2014. Without challenging the rejection order, filing the present writ petition is not maintainable. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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

+1 CC to M/s.SPL GP (SR-8419[F] dated 03/03/2021)

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GS (23.06.2021) 3P 3C