



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

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THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

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W.A.(MD)No.1624 of 2018 and W.P.(MD) No.2072 of 2019
and C.M.P.(MD) No.11815 of 2018 in W.A.(MD)No.1624 of 2018
and W.M.P. (MD) No.1667 of 2019 in W.P.(MD) No.2072 of 2019

W.A. (MD)No.1624 of 2018:

M.Godwyn James

... Appellant/Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Thoothukudi Region,
Thoothukudi.

2.The President,
E.E.423, Udangudi Primary Agricultural Cooperative
Credit Society Ltd.,
29-A, Sathiyamoorthy Bazar,
Udangudi,
Thoothukudi District.

3.The President,
Nazareth Cooperative Urban Bank,
Nazareth,
Thoothukudi District.

4.The Election Commissioner,
Tamil Nadu State Cooperative Societies Commission,
1st Floor, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent
against the order passed by this Court in W.P.(MD)No.5444 of 2018,
dated 10.09.2018.

Prayer in WP(MD). 5444/ 2018 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus directing calling for the records relating
to the impugned order passed by the 1st respondent in his
proceedings in Na.Ka.1746/2016 PACS dated 08/03/2018 and that of



the 2nd respondent dated 08/03/2018 and quash the both orders and consequently permit the petitioner to discharge his duties as clerk continuously without any interruption in the 2nd respondent cooperative society.

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For Appellant	:	Mr.T.A.Ebenezer
For Respondent No.1	:	Mr.C.Ramesh Special Government Pleader
For Respondent No.2	:	Mr.N.Dilip Kumar
For Respondents 3 and 4	:	No appearance

W.P. (MD)No.2072 of 2019:

Maavatta Kooturavu Uliar Sangam (CITU),
Chidambaranar District Committee,
Through its
Joint Secretary Mr.Ramesh Immanuel,
53, Matha Kovil Street, Kovilpatti,
Thoothukudi District. ... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Cooperation, Food and Consumer Protection Department,
Fort St. George,
Chennai.

2.The Registrar of Cooperative Societies,
Kilpauk,
Chennai - 10. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring Sub Rule 2A of Rule 149 of Tamil Nadu Co-operative Society Rules, 1988, which came into force on 26.12.2007 is applicable only to the employees appointed after the date of the amendment i.e., 26.12.2007, but not retrospectively.

For Appellant	:	Mr.T.A.Ebenezer
For Respondents	:	Mr.C.Ramesh Special Government Pleader



COMMON JUDGMENT

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

Since the issue involved are interlinked, though one of the case is a Writ Petition, praying for a declaration to declare Rule 149(2-A) of Tamil Nadu Co-operative Society Rules, 1988, which came into force on 26.12.2007 is applicable only to the employees appointed after the date of the amendment i.e., 26.12.2007, but not retrospectively, we have heard the matter together and the matters are disposed of by this common judgment/order.

2.W.A.(MD) No.1624 of 2018 has been filed challenging the order passed in W.P.(MD) No.5444 of 2018, which was filed by the appellant challenging the order of deputation on the grounds that there is no power for the Society to depute the appellant to a different Society and the post, which is being occupied by the appellant, is non-transferable post. The learned Single Judge did not accept the contention of the appellant and dismissed the Writ Petition.

3.A Trade Union, which was formed by the employees working in Co-operative Societies through its Joint Secretary, who is at Kovilpatti, Thoothukudi District has filed the Writ Petition to declare Rule 149(2-A) of Tamil Nadu Co-operative Society Rules, 1988, is applicable only to the employees appointed after the date of the amendment i.e., 26.12.2007.

4.On going through the averments set out in the Writ Petition and after elaborately hearing Mr.T.A.Ebenezer, learned counsel appearing for petitioner, this Court is of the view that the argument projected that the employees, who are appointed earlier to the amendment cannot be sent on deputation by pressing the power given under the amended rule cannot be accepted. We find that this can never be a ground to challenge the effect of the statute, technically not the very provision of the Act. That apart, deputation is one among the service conditions and even assuming that if it is specifically provided for, considering the welfare of the organisation as well as the employees, the Society is entitled to exercise the jurisdiction. Therefore, we cannot grant the relief sought for.

5.In the result, W.A.(MD) No.1624 of 2018 is disposed of with a observation that the staff of the Society are liable to be sent on deputation either prior to the amendment or thereafter. We are informed that pursuant to the stay granted, the appellant is working in the very same Society. Therefore, it will be open to the Society to act in accordance with law. For the reasons stated



above, W.P.(MD) No.2072 of 2019 is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

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/ /2021

Sub Assistant Registrar (CS)

sj

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 Secretary, Government of Tamil Nadu,
Cooperation, Food and Consumer Protection Department,
Fort St. George,
Chennai.

2.The Registrar of Cooperative Societies,
Kilpauk,
Chennai - 10.

3.The Joint Registrar of Cooperative Societies,
Thoothukudi Region,
Thoothukudi.

4.The Election Commissioner,
Tamil Nadu State Cooperative Societies Commission,
1st Floor, Kamadhenu Super Market,
Anna Salai, Chennai - 600 018.

+1 cc to Mr.T.A.Ebenezer , Advocate SR.No.15564

W.A. (MD)No.1624 of 2018 and
W.P. (MD) No.2072 of 2019
08.04.2021

KM(27.05.2021) 4P 6C