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WP.No.2220/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.09.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.2220/2019 & WMP.No.2503/2019

C.Murugesan

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Petitioner

Versus

1.The Registrar of Cooperative Societies
Chennai 600 010.

2.The Joint Registrar of Cooperative Societies
Salem Region, Salem 636 001.

3.The Deputy Registrar of Cooperative Societies
Omalur Circle, Omalur, Salem District 636455.

4.The President
The TANGEDCO Mettur Workshop
Circle and Thermal Power Station II
Employees Cooperative Thrift and
Credit Society Ltd., No.S544
Mettur Dam 636 401.

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Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of mandamus forbearing the respondents
and their subordinates from interfering with the service condition of the
petitioner in terms of Settlement dated 24.11.2012 under ID Act, 1947,



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entered into between the management of the 4th respondent Society and its employees.

For Petitioner : Mr.G.Puuniakotti
For R1 to R3 : Mr.U.M.Ravichandran
Special Government Pleader
For R4 : Mr.L.P.Shanmugasundaram
Standing counsel

ORDER

(1)The prayer sought for herein is as follows:-

"Writ petition filed for issuance of a writ of mandamus forbearing the respondents and their subordinates from interfering with the service condition of the petitioner in terms of Settlement dated 24.11.2012 under ID Act, 1947, entered into between the management of the 4th respondent Society and its employees."

(2)The petitioner was initially appointed as Office Assistant with a monthly salary of Rs.150/- at the 4th respondent/Society on 01.12.2001. Thereafter, promotion was given as Jewel Appraiser and his salary has also been increased by bringing him under the Time



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Scale of Pay some time in the year 2017 and the petitioner had been working in that capacity for 16 years, i.e., from 2001-2017.

(3) While so, on 07.07.2017, the 4th respondent issued a Show Cause Notice to the petitioner asking him to show cause as to why his promotion given, which according to the 4th respondent is against the bye-law and the statute governing the functioning of the 4th respondent/Society, shall not be cancelled.

(4) In response to the show cause notice, the petitioner has given a detailed reply on 03.08.2017 where he has made averment justifying his appointment and promotion and also he pleaded that since he had been working for 16 years in that capacity as Jewel Appraiser that is the promotion post given by the 4th respondent/Society which according to him based on the Notification or Letter issued in this regard by other official respondents. However before passing any order in this regard the petitioner has approached this Court by filing the present writ petition with the aforesaid prayer.

(5) The learned counsel for the petitioner would canvass the point that there has been a Settlement under Section 12[3] of the Industrial Disputes Act, 1947, between the Management and the Employees'



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Union based on which the promotion was given and the Time Scale of Pay under which the petitioner has been brought in is protected as the said 12[3] Settlement would be in force till the 7th Pay Commission Recommendation is being implemented and therefore, the learned counsel for the petitioner would submit that the proposed action as has been indicated in the show cause notice issued by the 4th respondent on 07.07.2017 is to be dropped and in order to restrain the 4th respondent from proceeding further in interfering with the service conditions of the petitioner, the present writ petition since has been filed, he has pleaded for issuance of a writ of mandamus as prayed for.

(6) However, the learned Special Government Pleader appearing for the respondents would submit that the initial appointment of the petitioner as Office Assistant itself was without the name being sponsored by the Employment Exchange. Assuming that for contingency if he was appointed as Office Assistant with a meager salary of Rs.150/-, subsequently, on what basis promotion was given as Jewel Appraiser and the petitioner was brought under the Time Scale of Pay is not in consonance with the bye-laws of the Society and also the Rules which were in vogue. Therefore, it become necessitated to take action



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against such promotion given to the petitioner. Hence, the show cause notice was given by the 4th respondent/Society on 07.07.2017 for which though the petitioner claimed to have given reply on 03.08.2017, he has rushed to this Court by filing the present writ petition seeking prohibitory order against the respondents, especially, the 4th respondent from taking any action pursuant to the show cause notice. Therefore, the learned Special Government Pleader would contend that this writ petition can be disposed of giving liberty to the 4th respondent/Society to take action pursuant to the show cause notice dated 07.07.2017 of course, by considering the reply given by the petitioner dated 03.08.2017.

(7)I have considered the said rival submissions made by the learned counsel appearing on both sides and I have perused the materials placed before me.

(8)Though it was claimed by the petitioner that the appointment given to the petitioner and the subsequent promotion he earned by bringing him under the Time Scale of Pay by various proceedings issued by the 4th respondent/Society are in consonance with the bye-laws as well as the terms of the 12[3] Settlement entered into between the parties, the 4th



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respondent/Society has issued the show cause notice on 07.07.2017 pursuant to which the petitioner also since has given a detailed reply on 03.08.2017, at this juncture no prohibitory order can be issued against the respondents especially the 4th respondent/Society from proceeding further as per law pursuant to the show cause notice.

(9) In that view of the matter, this Court is inclined to dispose of this writ petition with the following order that there shall be a direction to the 4th respondent/Society to consider the reply / representation given by the petitioner dated 03.08.2017 and in this regard, if any further input which have to be supplied by the petitioner, it is open to him to supply the same within a period of two weeks from the date of receipt of a copy of this and on receipt of the further input based on the reply given by the petitioner dated 03.08.2017, it is open to the 4th respondent/Society to pass necessary orders based on the bye-law of the 4th respondent/Society as well as the provisions of the Tamil Nadu Cooperative Societies act and in this regard if at all is there any terms of the 12[3] Settlement entered into between the parties which is heavily relied upon by the petitioner, that can also be taken into account and based on all these aspects, final order shall be passed by



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the 4th respondent/Society thereafter.

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(10)With these directions, this writ petition stands **disposed of**. No costs.

Consequently, connected miscellaneous petition is closed.

02.09.2022

AP

Internet : Yes

To

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R.SURESH KUMAR, J.,

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