



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.NO.15496 OF 2010

AND

M.P.NO.1 OF 2015

P.Rangasamy

... Petitioner

Vs.

1. The Secretary,
Co-operative Food and Consumer
Protection Department,
Secretariat,
Chennai - 600 009.
2. The Registrar,
Tamil Nadu Co-operative Society,
Chennai - 600 010.
3. The Additional Registrar,
(Marketing Planning Development)
Office of Registrar of Co-operative Society
Chennai - 600 010.
4. The Deputy Registrar of Co-operative Societies,
Dharmapuri Region,
Dharmapuri.
5. The Special Officer,
Dharmapuri Central Co-operative Bank,
Dharmapuri.

... Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the entire records relating to the Order in Na.Ka.147379/2002 Sa.Pa.1 dated 24.11.2006 passed by the Additional Registrar (Marketing Planning Department) the third respondent herein and quash the same as far as it relates to the rejection of the



Petitioner's monetary benefit, consequently direct the Respondents to grant monetary benefit as per the Judgment dated 28.09.2000 in Case No.1310/98-99 passed by the Deputy Registrar - Tribunal, Dharmapuri.

WEB COPY

For Petitioner : No Appearance

For Respondents: Mrs.R.Renganayaki
Additional Government Pleader (for R1 to R4)

Mr.M.S.Palaniswamy (for R5)

ORDER

The writ petition has been filed challenging the order in Na.Ka.147379/2002 Sa.Pa.1 dated 24.11.2006 passed by the Additional Registrar (Marketing Planning Department)/the 3rd respondent herein and consequently, to grant him all monetary benefits pursuant to his promotion.

2. The case of the petitioner is that in the year 1983 when the petitioner was working as Senior Assistant/Manager, a charge sheet was issued to him and a criminal case was also pending on the same facts in C.C.No.346 of 1989. By the judgment dated 29.03.1996 he was acquitted in the said criminal case. Thereafter, by an order dated 20.08.1996, the departmental proceedings pursuant to the charge memo were dropped. In the meanwhile, in the year 1991, his junior was granted promotion as Assistant Manager and in the year 1995, he was further granted promotion as Manager. Therefore, he raised dispute under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as the 'Act' for short) claiming those promotions with all consequential benefits. By an order dated 28.09.2000, his claim was allowed granting him all the promotion with monetary benefits.

3. Aggrieved by the same, the Special Officer, Dharmapuri Central Co-operative Bank namely the 5th respondent herein preferred an appeal under Section 152 of the Act and by the order impugned in the writ petition dated 24.11.2006, while confirming the benefits of promotion granted by the 4th respondent, the 3rd respondent modified the same as notional promotion without any arrears and monetary benefits, making the benefits to accrue prospectively. Aggrieved by the same, the present writ petition is filed.



4. When the writ petition came up for hearing today, Mr.M.S.Palaniswamy, learned counsel appearing on behalf of the 5th respondent relying upon the judgment of this Court in W.P.No.17802 of 1994 etc., batch dated 10.06.2008, would submit it is now settled law that the very submission of dispute under Section 90 of the Act was without jurisdiction and the order of the Original Authority and the consequential appeal of the Appellate Authority both are without jurisdiction and as such should be treated as no consequence and therefore, the petitioner's claim based an erroneous order passed under Section 90 of the Act cannot be countenanced.

5. I have considered the submission made and perused the materials available on record.

6. Even though as per the judgment cited by the learned counsel appearing for the 5th respondent, it has been held that a service matter cannot form the subject matter of dispute under Section 90 of the Act, based on the appeal filed by the 5th respondent/bank, the same was modified as notional promotion with prospective benefits only. The said order was challenged only by the petitioner and rather it is implemented by the 5th respondent/bank by giving him notional benefits.

7. In that view of the matter, I am not in a position to accept the contention made by the learned counsel for the 5th respondent that both orders should be treated as null and void. Similarly, when the petitioner has since retired while taking up the case of review of his promotion, after the disposal of the criminal case and departmental proceedings, no exception can be taken for grant of notional promotion and since no promotion has been granted to the petitioner when he was in service and when the benefit is being conferred only after retirement. Only notional promotion with prospective benefits can be given and no exception can be taken for such a finding given by the 3rd respondent.

8. Accordingly, I find no merit in the writ petition and the writ petition stands dismissed. Consequently, the connected miscellaneous petition is closed. However, there will be no order as to costs. 1

Sd/-
Assistant Registrar(CS IX)

//True Copy//

dm

Sub Assistant Registrar



To

1. The Secretary,
Co-operative Food and Consumer
Protection Department,
Secretariat,
Chennai - 600 009.
2. The Registrar,
Tamil Nadu Co-operative Society,
Chennai - 600 010.
3. The Additional Registrar,
(Marketing Planning Development)
Office of Registrar of Co-operative Society
Chennai - 600 010.
4. The Deputy Registrar of Co-operative Societies,
Dharmapuri Region,
Dharmapuri.
5. The Special Officer, Dharmapuri Central Co-operative Bank,
Dharmapuri.

+1cc to Mr.M.S.Palaniswamy, Advocate, S.R.No.17201
+1cc to the Government Pleader, S.R.No.17415

W.P.No.15496 of 2010

NRL (CO)
PM/25/03/2022