



W.P.No.17893 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.17893 of 2022

and

WMP Nos.17232 & 17233 of 2022

P.Manikandan

... Petitioner

Vs

1. The Joint Registrar of Co-operative Societies,
The Office of the Joint Registrar of Co-operative Societies,
Perambalur Region,
Perambalur Taluk,
Perambalur District
Pin 621 212
2. The Deputy Registrar of Co-operative Societies,
The office of the deputy Registrar of Co-operative Societies,
Perambalur Circle,
Perambalur Taluk,
Perambalur District
Pin 621 212
3. Kalpadi Primary Agricultural Cooperative
Credit Society Ltd (R.1227)
Represented by its President,
Kalpadi PO,
Perambalur Taluk,
Perambalur District, Pin 621 113.



W.P.No.17893 of 2022

4. C.N.Parshith

... Respondents

WEB COPY

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent as contained in the impugned order dated 24.01.2022, bearing Na.Ka.No.233/2022/thovesa and the records of the 2nd respondent as contained in the consequential impugned order dated 24.05.2022 bearing Na.Ka.No.1566/2022/Kapa(11) and quash the same and consequently direct the respondents 1 to 3 to give full effect to the order of his promotion as a clerk in the 3rd respondent by entering his name in the attendance register and enhancing his salary to that of a clerk with backwages, continuity of service, monetary, service and all other benefits.

For petitioner	...	Mr.K.Newlin Frederick
For Respondents	...	Mr.G.Ameedius Government Advocate for R1 & R2 Mr.S.Ravikumar, Special Government Pleader for R3 Mr.J.Kamaraj for R4

ORDER

This writ petition has been filed challenging the appointment order issued to the fourth respondent dated 24.01.2022.

2. The impugned order has been passed by the first respondent on



W.P.No.17893 of 2022

24.01.2022 and the consequential impugned order has been passed by the second respondent on 24.05.2022 in favour of the fourth respondent.

3. The petitioner claims that he was appointed as a Salesman on 23.05.2007. Thereafter, he was promoted as a Clerk by the proceedings of the third respondent on 01.11.2021. According to the petitioner, though he was promoted as a Clerk, he continued to work as a Salesman. According to the petitioner, though the petitioner was promoted as a Clerk by the proceedings of the third respondent dated 01.11.2021, the fourth respondent has been appointed as a Clerk under the impugned orders dated 24.01.2022 and 24.05.2022, arbitrarily and illegally.

4. A counter affidavit has been filed by the official respondents, denying the contentions of the petitioner. According to the respondents, the petitioner was never promoted as a Clerk and the proceedings dated 01.11.2021 relied upon by the petitioner, cannot be acted upon, as it is only a Resolution passed by the Society and the Government has not passed any order promoting the petitioner to the post of Clerk from the post of



W.P.No.17893 of 2022

Salesman.

WEB COPY

5. The fourth respondent has filed a counter reiterating the contentions of the official respondents and would submit that the petitioner was appointed on compassionate basis due to the fact that his mother who was employed with the third respondent Society, died in harness.

6. Heard the learned counsel for the petitioner and Mr.G.Ameedius, learned Government Advocate appearing for the 1st & 2nd respondents and Mr.S.Ravikumar, Special Government Pleader appearing for the 3rd respondent and Mr.J.Kamaraj, learned counsel appearing for the 4th respondent.

7. The learned counsel for the petitioner drew the attention of this Court to the alleged promotion order dated 01.11.2021, said to have been passed by the third respondent, which he claims that it is a valid promotion order, under which, the petitioner has been promoted as a Clerk in the third respondent Society from the post of Salesman. He would submit that despite



W.P.No.17893 of 2022

a valid promotional order having been issued in favour of the petitioner, the impugned orders have been passed, appointing the fourth respondent as a Clerk in the third respondent Society, which according to him, is arbitrary and illegal.

8. Learned counsel for the petitioner also referred to the impugned orders, which are the subject matter of this writ petition in support of his contention that the said orders are arbitrary and illegal.

9. The learned Additional Government Pleader appearing for the official respondents would submit that the proceedings dated 01.11.2021 passed by the third respondent Society, which the petitioner relies upon, is only a resolution passed by the third respondent society and it is not a Government Order. Any promotion, according to him, will have to be approved only by the Government. Therefore, according to him, there is no merit in this writ petition.

10. Learned counsel for the fourth respondent has placed before this



W.P.No.17893 of 2022

Court, the proceedings of the second respondent dated 04.02.2022, under which, the second respondent has granted approval to the third respondent to appoint the fourth respondent as Junior Clerk in the Society by strictly adhering to the following guidelines:

- a) Compassionate appointment should be within the cadre strength of the society
- b) The applicant should have obtained the prescribed qualification to the post as per Special Bye-laws of the Society.

11. On receipt of the above proceedings of the second respondent dated 04.02.2022, the third respondent has also passed a Resolution dated 31.03.2022 to appoint the fourth respondent as a Junior Clerk in the Society from 01.04.2022 onwards. Further more, as per Resolution No.2, the third respondent Society has already cancelled the Resolution passed on 01.11.2021 in favour of the petitioner recommending his appointment as a Junior Clerk. Since the earlier Resolution of the third respondent dated 01.11.2021 has not been approved by the Government, necessarily, this Court will have to accept the contention of the respondents that the fourth respondent was appointed as a Junior Clerk as the fourth respondent's



W.P.No.17893 of 2022

appointment has been approved by the Government by proceedings dated 04.02.2022. Further more, the fourth respondent has also been appointed on compassionate ground as is the case of the petitioner, who was appointed in the year 2007. The fourth respondent's mother, who was a Junior Clerk died in harness and the fourth respondent has been granted compassionate appointment on account of his mother's death. The fourth respondent is the only son of the deceased employee viz., C.Navamani.

12. The official respondents as well as the private respondent have contended in their respective counters that the petitioner ,while working as a Salesman in the Fair Price Shop, had misappropriated the sale proceeds and in this regard, disciplinary action was initiated against the petitioner. According to them, the petitioner was imposed punishment of withholding the increment for one year with cumulative effect, as per the proceedings of the third respondent Society dated 14.06.2016. The official respondents have categorically denied the submission of the petitioner that he was promoted as a Junior Clerk with effect from 01.11.2021. The petitioner continued to work as a Salesman which is his plea taken in the affidavit filed in support of this



W.P.No.17893 of 2022

writ petition. The respondents have categorically contended that the petitioner was never promoted to the post of junior clerk.

13. For the foregoing reasons, this Court is of the considered view that only by following the due procedure established under law, the fourth respondent has been appointed as a Junior Clerk on compassionate basis on account of his mother's death, who was an employee in the third respondent society.

14. There is absolutely no merit in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

14.11.2022

Index: Yes/ No
Speaking Order/Non-speaking Order
sr



W.P.No.17893 of 2022

To

WEB COPY

1. The Joint Registrar of Co-operative Societies,
The Office of the Joint Registrar of Co-operative Societies,
Perambalur Region,
Perambalur Taluk,
Perambalur District
Pin 621 212
2. The Deputy Registrar of Co-operative Societies,
The office of the deputy Registrar of Co-operative Societies,
Perambalur Circle,
Perambalur Taluk,
Perambalur District
Pin 621 212
3. Kalpadi Primary Agricultural Cooperative
Credit Society Ltd (R.1227)
Represented by its President,
Kalpadi PO,
Perambalur Taluk,
Perambalur District
Pin 621 113.



WEB COPY



W.P.No.17893 of 2022

ABDUL QUDDHOSE, J.

sr

W.P.No.17893 of 2022

14.11.2022