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W.P.No.38202 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38202 of 2016
and W.M.P.Nos.32751 & 32752 of 2016

P.Krishnamoorthy

...Petitioner

Vs.

- 1.The Joint Registrar of Co-op Societies
/Revisional Authority,
Office of the Joint Registrar of Co-op Societies,
Namakkal Region, 2nd Floor, District Collectorate,
Namakkal, Namakkal District.
- 2.The President,
S-144, R Jadarpalayam,
Primary Agricultural Co-op. Credit Society,
Credit Society, Jadarpalayam Post,
Rasipuram Taluk, Namakkal District. Pin – 637 406
- 3.K.Thamizhalagan,
Salesman
S-144, R Jadarpalayam,
Primary Agricultural Co-op. Credit Society,
Credit Society,
Jadarpalayam Post, Rasipuram Taluk,
Namakkal District.
Pin – 637 406

Respondents



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Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of 1st respondent vide Revision No.1886/2016/SaPa and quash the Impugned Order dated 1.9.2016 passed by the 1st respondent the proceedings of the 2nd respondent dated 2.3.2016

For Petitioner : Mr.R.M.D.Nazarullah

For Respondents : Mr.R.P.Murugan Raja
Government Advocate for R1

Mr.S.Arumugam for R2

Mr.Ma.P.Thangavel for R3

ORDER

The writ on hand has been instituted questioning the validity of the revisional order passed by the 1st respondent under Section 153 of the Tamil Nadu Co-operative Societies Act.

2.The petitioner states that he joined as Salesman in the 2nd respondent Society on 02.01.1989 on daily wage basis and thereafter, he was regularly appointed with effect from 01.06.1991.



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3.The petitioner was considered for promotion to the post of Junior Clerk by the Management of the 2nd respondent Co-operative Societies. The said decision of the Management was questioned by the 3rd respondent by filing a revision petition before the 1st respondent under Section 153 of the Tamil Nadu Co-operative Societies Act. The said revision petition was allowed and thus, the petitioner is constrained to move the present writ petition.

4.The learned counsel for the petitioner made a submission that the decision of the 2nd respondent Management was based on merits and considering the services of the writ petitioner and thus, the revisional order passed by the 1st respondent is liable to be set aside. In this regard, the learned counsel for the petitioner drew the attention of this Court with reference to the comparative service particulars provided by him at Page No.22 of the typed set of papers which reveals that both the petitioner and the 3rd respondent were appointed on the same day and they were permanently absorbed in the services of the Society on 30.06.1992. When two employees were appointed on the same day in the same cadre, then the date of birth is to be considered for the purpose of grant of promotion and that being the Rule to be followed, the 3rd



respondent approached the 1st respondent by way of a revision petition under Section 153 of the Act.

5.The another grievance raised by the petitioner is that the revision was heard without even impleading the petitioner and therefore, the petitioner was not provided with an opportunity to defend his case and the unilateral decision taken by the 1st respondent is in violation of the principles of natural justice and on that ground also the order impugned is liable to be set aside.

6.The learned Government Advocate appearing on behalf of the 1st respondent is unable to establish that an opportunity was provided to the writ petitioner to defend his case. Thus, the matter is to be remanded back for fresh adjudication by affording an opportunity to the writ petitioner to defend his case. Accordingly, the order impugned passed by the 1st respondent in Revision No.1866/2016/SaPa, dated 01.09.2016 is quashed and consequently, the 1st respondent is directed to adjudicate the Revision Petition filed by the 3rd respondent under Section 153 of the Tamil Nadu Co-operative Societies Act by impleading the writ petitioner and by affording opportunity to him to place all the facts and documents for the purpose of



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establishing his rights. The 1st respondent is directed to complete the said exercise and pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With this direction, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

03.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To

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S.M.SUBRAMANIAM, J.

SSR

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