

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2908 of 2014

G.Krishnaveni

... Petitioner

-Vs-

1. The Joint Registrar of
Co.op. Societies,
Tiruvannamalai Region,
Tiruvannamalai,
Tiruvannamalai District.

2. The President,
H.H.588, A.T. Mangalam Primary
Agricultural Co.op. Credit Society,
Arunagiri Mangalam Village,
Thenmadhimangalam Post,
Kalasapakkam Taluk,
Tiruvannamalai District.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned orde passed by the 1st respondent in his proceedings Na.Ka.7390/2011/PACCS, dated 27.03.2013 and quash the same and consequently direct the respondents to regularize the petitioner's service in the 2nd respondent society by fixing the revised pay scales with all service benefits.

For Petitioner : Mr.K.Sathish Kumar

For R1 : Mrs.S.Anitha,
Spl. Government Pleader

For R2 : Mr.M.S.Palaniswamy

ORDER

The order rejecting the claim of the writ petitioner for regularization is under challenge in the present writ petition.

2. The benefit of regularization or permanent absorption in a Co-operative Society was elaborately considered by this Court initially in the case of L. Justine and others Vs. Registrar of Cooperative Societies reported in (2002) 4 CTC 385. The Division Bench decided the issue relating to irregular appointments in Co-operative Societies. Subsequently, the appointments made in accordance with law were regularized and it was made clear that initially the appointments must be made through District Employment Exchange concerned. Thereafter, many developments occurred and the Hon'ble Supreme Court of India in the case of A. Uma Rani Vs. Registrar of Cooperative Societies and others reported in (2004) 7 SCC 112, also settled the principles that the appointments are to be made in accordance with the recruitment rules applicable to the Society concerned. The Hon'ble Supreme Court made it very clear that back door appointments can never be regularized and such persons entered into public services through back door must be allowed to go from the door through which they entered into.

3. The principles regarding regularization are further settled by the Constitutional Bench of the Hon'ble Supreme Court of India in the case of State of Karnataka Vs. Uma Devi and Others reported in (2006) 4 SCC 1. Thus, the issues regarding regularization and permanent absorption are no more res integra and the appointment made only in accordance with the regularization rules alone is to be regularized and back door appointments can never be conferred with the benefit of permanent absorption.

4. Equal opportunity in public employment is the Constitutional mandate and the candidates, who all are aspiring to secure public employment, are to be provided with an opportunity to participate in the process of selection. In the event of back door entry, the rights of eligible candidates, who all are longing to secure employment, are infringed. Therefore, the Courts have repeatedly held that High Court cannot issue any direction to regularize the service of the candidates' appointment irregularly or illegally under Article 226 of the Constitution of India. This being the dictum, this Court is of the opinion that the direction to regularize services cannot be granted, if the initial appointments are not made in accordance with the recruitment rules in force.

5. In the present case, it is brought to the notice of this Court that the writ petitioner has involved in a criminal case

and the said criminal case ended in an order of conviction. This being the factum, the question of further consideration does not arise at all.

6. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jeni/hvk

To

The Joint Registrar of
Co.op. Societies,
Tiruvannamalai Region,
Tiruvannamalai,
Tiruvannamalai District.

W.P.No.2908 of 2014

SV(CO)
CT/18/07/2022