



W.A(MD)No.591 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

and

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.A(MD)No.591 of 2011

and

M.P(MD)No.1 of 2011

C.Thiragarajan ... Appellant/4th Respondent

Vs.

1.Krishi Kesavan ...1st Respondent/Petitioner

2.The Joint Registrar of
Co-operative Societies,
Nagercoil,
Kanyakumari District. ...2nd Respondent/1st Respondent

3.The Deputy Registrar of
Co-operative Societies, Thuckalay Circle,
Thuckalay, Kanyakumari District. ...3rd Respondent/2nd Respondent

4.Thiruvattar Primary Agricultural Co-operative
Bank Ltd., No.674, but its Special Officer,
Thiruvattar, Kanyakumari District. ...4th Respondent/3rd Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 15.11.2010 made in W.P.No.9794 of 2008 .



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For Appellant : Mr.G.Arunachalam
For R-1 : Mr.T.Lajapathi Roy
For R-2 & R3 : Mr.D.Sasikumar
Additional Government
Pleader
For R4 : Mr.B.Brijeshkishore

JUDGMENT

J. NISHA BANU, J.
AND
N. ANAND VENKATESH, J.

This writ appeal has been filed against the order passed by the learned single Judge in W.P(MD)No.9794 of 2008, dated 15.11.2020, whereby the learned Single Judge quashed the impugned order passed by the Joint Registrar of Co-operative Societies and the earlier promotion that was given to the writ petitioner to the post of clerk was affirmed.

2.When the writ petition came up for hearing on 21.09.2022, an order was passed by this Court allowing the writ appeal and setting aside the order passed by the learned Single Judge. Subsequently, a mention was made by the learned counsel appearing on behalf of the first respondent/writ petitioner stating that there is a subsequent development, which will have a bearing in this case and the same was not brought to the notice of this Court.



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3. In view of the above, the matter was posted under the caption “for clarification” on 26.09.2022 and the following order was passed by this Court,

“When the Writ Appeal came up for hearing on 21.09.2022 this Court passed an order in the Open Court allowing the Writ Appeal and setting aside the order passed by the learned Single Judge. Thereafter, a mention was made by the learned counsel appearing on behalf of the first respondent stating that there were certain developments which were not brought to the notice of this Court and hence, the matter was directed to be posted under the caption "for clarification", today.

2. When the matter was taken up for hearing today, it was informed that when the Writ Appeal came up for hearing before the earlier Division Bench, it was informed that by virtue of the increase in turn over, there is an increase in the cadre strength to the post of Clerk. Hence, the Division Bench directed the learned Additional Government Pleader and also the counsel representing the Society to ascertain as to whether both the appellant as well as the first respondent can be accommodated in the said post, without disturbing their position. This important factor was not brought to the notice of this Court and hence, this Court proceeded to pass orders on merits on 21.09.2022.

3. In view of the above, the order passed on



21.09.2022 is withdrawn and there shall be a direction to post this Writ Appeal under the caption "for final hearing" on 12.10.2022."

4.The learned counsel appearing on behalf of the fourth respondent, on instructions, submitted that as per the amended Bye Laws, which came into effect from 30.01.2013, the cadre strength insofar as the post of Clerk is concerned, has been fixed as two(2). The learned counsel also produced the final audit that was conducted for the period 2020-2021 and we find that as against the name of the appellant, his designation has been marked as 'Clerk-I' and as against the name of the writ petitioner/first respondent, it has been noted as Clerk-II. It is, therefore, clear that both the writ petitioner as well as the appellant have been accommodated to the post of Clerk.

5.In the considered view of this Court, since the writ petitioner and the appellant have been accommodated in the sanctioned posts of Clerk, their position need not be disturbed. Hence, this Court does not want to go into the merits of the order passed by the learned Single Judge and it may not warrant any interference. By virtue of the same, since the appellant is senior to the writ petitioner, the appellant will be entitled to be promoted to the post of Assistant Secretary and the writ petitioner will



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be entitled to be promoted to the post of Senior Clerk. If necessary orders are passed to this effect, there can be no grievance for both the appellant and the writ petitioner and their seniority status can be maintained as it is.

6.In view of the above, there shall be a direction to the fourth respondent/Co-operative Bank to pass a resolution in terms of the above direction issued by this Court, within a period of six weeks from the date of receipt of a copy of this order and the same shall be forwarded to the Joint Registrar of Co-operative Societies, Nagercoil. The Joint Registrar shall act upon the resolution and pass necessary orders within a period of six weeks thereafter.

7.This writ appeal is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B.,J.] & [N.A.V.,J.]

12.10.2022

Index : Yes/No
Internet : Yes/No



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JUDGMENT MADE IN

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