



WP(MD)Nos.849 & 11112 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)Nos.849 & 11112 of 2021

and

W.M.P(MD)Nos.708 & 8728 of 2021

In W.P(MD)No.849 of 2021

Y-73 Kurumathoor Primary Agricultural
Co-operative Credit Society,
Thiruthuvapuram,
Kuzhithurai Post, Vilavancode Taluk,
Kanyakumari District,
Represented by its President.

... Petitioner

/vs./

1.The Joint Registrar of Co-operative Societies,
Kanyakumari Region,
Collector Office New Building, 2nd Floor,
Nagercoil, Kanyakumari District.

2.T.Rajan,
Assistant Secretary,
Y-91, Anducode Primary Agricultural
Co-operative Credit Society,
Anducode-Post,
Vilavancode Taluk, Kanyakumari District.

... Respondents



WP(MD)Nos.849 & 11112 of 2021

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings No.Na.Ka.2870/2020/Tho Ve Sa(4), dated 26.11.2020 and quash the same as illegal and pass such further or other orders as this Court.

For Petitioner : Mr.V.H.S.Prathap
For R-1 : Mr.M.Ramesh
Government Advocate
For R-2 : M/s.S.Titus

In W.P(MD)No.11112 of 2021
T.Rajan

... Petitioner

/vs./

- 1.The Secretary to Government,
Co-operative Food and Consumer
Protection Department,
Secretariat,
Chennai.
- 2.The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
170, E.V.R.Nedumsalai, Keelpakkam,
Chennai-600 010.
- 3.The Joint Registrar of Co-operative Societies,
Kanyakumari Region,
Collector Office New Building, 2nd Floor,
Nagercoil, Kanyakumari District.

... Respondents



WP(MD)Nos.849 & 11112 of 2021

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents most particularly the second respondent to decide the salary, mode of payment and other benefits as stated in rule 8 of common cadre service rules in the Agricultural Co-operative Credit Societies rules 2019 (as per G.O.14 of 2019, dated 12.02.2019) and disperse the same and pass such further or other orders as this Court.

For Petitioner : M/s.S.Titus

For Respondents : Mr.M.Ramesh
Government Advocate

COMMON ORDER

The President of the Y-73 Kurumathoor Primary Agricultural Co-operative Credit Society, in W.P(MD)No.849 of 2021, has challenged the appointment of one Mr.T.Rajan made by the Joint Registrar in his proceedings in Na.Ka.2870/2020/Tho Ve Sa(4), dated 26.11.2020, as the Secretary of their Society. Pursuant to the appointment made, since the appointee, namely, Mr.T.Rajan, was not paid the salaries under the monetary benefits, he has sought for a direction to the Registrar for payment of such benefits in W.P(MD)No.11112 of 2021. Since the issue involved in both the writ petitions are one and the same, a common order is passed.



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2. Under Rule 7 of the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019 (herein after referred to as "CCS Rules"), the post of a Common Cadre Employee shall be filled up by promotion from the feeder post, which is immediately below the post of Secretary in the respective class of Primary Agricultural Co-operative Credit Societies.

3. As per the definition of Common Cadre Employees under Rule 2 (g), all the Secretaries of the Primary Agricultural Co-operative Credit Societies are deemed to be the Common Cadre Employees. Rule 8 provides for fixation of the scale of pay, allowances and other service benefits to such Common Cadre Employees by the Registrar. Likewise, such Common Cadre Employees shall also be entitled for the benefits of Provident Fund, Gratuity, Ex-Gratia and increments under Rule 9, 10 and 11.

4. The learned Counsel for the Society submitted that the special bylaws of the Society does not provide for appointments of Secretaries from foreign establishments and that such Secretaries can be appointed, only through promotion from their own Society.



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5. The learned Government Advocate however would submit that the procedure for filling up the Common Cadre Service is under the CCS Rules and therefore, there is no infirmity in the appointment of Mr.T.Rajan.

6. The learned Counsel appearing for the Secretary, reiterates the stand taken by the learned Government Advocate and submitted that since the appointment of Mr.T.Rajan was properly made, he would be entitled for all the salary and other monetary benefits under the CCS Rules.

7. When the special bylaws of the society, admittedly does not provide for any mode of appointment / promotion to the post of Secretary and more particularly when the CCS Rules specifically provides that Secretaries from other Societies can be promoted to any other Primary Agricultural Co-operative Credit Society, the submission that the special bylaws does not provide for a mode of appointment / promotion, cannot be sustained. In other words, the appointment of the petitioner to the post of Secretary, through promotion from the post of Assistant Secretary, is well within the ambit of Rule 18 of the CCS Rules and since the appointment has been properly made in accordance with the CCS Rules,



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the appointee would be entitled for all the service and monetary benefits attached to the post.

8. In the light of the above findings, no interference is required to the order of appointment made by the Joint Registrar through the impugned order, dated 26.11.2020 and hence, the writ petition in W.P(MD)No.849 of 2021 stands dismissed. In consequence to the aforesaid order of dismissal, the writ petition in W.P(MD)No.11112 of 2021 stands allowed and consequently, there shall be a direction to the Joint Registrar of Co-operative Societies to pass appropriate orders, in accordance with Rule 8 of the CCS Rules, determining the petitioner's (T.Rajan) scale of pay, allowances and extend all other service and monetary benefits payable to the petitioner in the Common Cadre Employees, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

18.08.2022

Index : Yes / No
Internet : Yes / No
btr/lm

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To

- 1.The Joint Registrar of Co-operative Societies,
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- 2.The Secretary to Government,
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M.S.RAMESH, J.

btr/lm

Order made in
W.P.(MD)Nos.849 & 11112 of 2021

Dated:
18.08.2022