



W.P(MD)No.1144 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1144 of 2022

and

W.M.P(MD)No.961 of 2022

The Management,
SP.SPL.134, Matthinayakkanpatti,
Primary Agricultural Co-operative Bank Limited,
Kulloor Sandhai,
Aruppukottai Taluk,
Virudhunagar District.

... Petitioner

Vs

1.The Authority under
Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen)
Act, 1981 and its Rules/
The Assistant Commissioner of Labour (Excise),
Viruthunagar.

2.S.Parameswari

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.A/1819/2021 dated 07.01.2022 and quash the same.



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For Petitioner : Mr.S.Vignesh

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R.1

Mr.P.R.Prithiviraj for R.2

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Special Government Pleader appearing for the first respondent and the learned counsel for the workman (actually woman).

2. The writ petitioner is a registered Co-operative Society. The second respondent herein joined the Society as Clerk in the year 2001. She however got relieved in the year 2002. She rejoined in the year 2007. She filed petition before the first respondent seeking conferment of permanent status. Enquiry was conducted. By the impugned order dated 07.01.2022, the competent authority directed conferment of permanent status on the applicant. Challenging the same, the Management has filed the present writ petition.

3. The counsel on either side reiterated all the contentions set out in the respective pleadings.

4. After considering the rival contentions and going through the materials on record, I am satisfied that the impugned order has to be confirmed. In such



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cases, the primary question that has to be seen is whether the post in which permanent status is sought is a sanctioned one or not. If there are sanctioned posts and there are also vacancies, then alone order in favour of the applicant can be granted and not otherwise. In the case on hand, it is not in dispute that there are sanctioned posts and that by accommodating the applicant / second respondent herein, the cadre strength will not be breached. In this view of the matter, no interference is called for.

5. It is seen that the second respondent moved the authority only in the year 2021. Therefore, the second respondent can be granted monetary benefits only with effect from 12.01.2021 when she filed the application. However, her service as a permanent employee will be counted as per the impugned order.

6. I need to clarify that whenever claims under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 are filed against the managements of Co-operative Societies, the jurisdictional Deputy Registrar will have to be made as a party. Then alone all the facts will be placed for consideration. It is quite possible that the Managements of the Societies in some cases may withhold material and relevant information regarding sanctioned cadre strength. However, on this ground I do not want to interfere in the present case. This direction will hold good in respect of future



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cases. If it is possible, the department can also get itself impleaded in the

pending cases. With this direction, the writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

17.11.2022

Index : Yes / No

Internet : Yes/ No

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Note: Registry is directed to mark a copy of this order to Registrar of Co-operative Society, Kilpauk, Chennai and to the Commissioner of Labour, Chennai.

To

The Assistant Commissioner of Labour (Excise),
Viruthunagar.



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G.R.SWAMINATHAN, J.

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