



W.P.(MD)No.1985 of 2020

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 21.12.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.1985 of 2020  
W.M.P(MD).Nos.1655 and 1656 of 2020**

Meenakshi Sundar

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,  
No.170, EVR Periyar High Road,  
Kilapauk,  
Chennai-600 010.

2.The Joint Registrar of Co-operative Societies,  
Tirunelveli.

3.O.1003 Lakshmipathi Co-operative Stores,  
Represented by its President,  
R.Mariraj

4.Nallasivan

... Respondents

**PRAYER :** Petition filed under Article 226 of the Constitution of India  
praying for issuance of Writ of Certiorari, to call for the impugned order



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passed in Na.Ka.6053/2019/Sa.Pa. Dated 17.12.2019 on the file of the second respondent herein and quash the same as illegal.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.S.Ramachandran  
Additional Government Pleader  
for R1 and R2  
Mr.G.Thalaimuthrasu  
for R4  
No appearance for R3

### **O R D E R**

This Writ Petition has been filed to call for the impugned order passed in Na.Ka.6053/2019/Sa.Pa. dated 17.12.2019 on the file of the second respondent herein and quash the same as illegal.

2. The case of the petitioner is that the petitioner was appointed as Salesman on 29.03.2010 by way of regular employment. Similarly, the fourth respondent was appointed in the year 1992 without any basic qualification as salesman. The post of Secretary was felt vacant on 14.12.2015. There were six eligible candidates at the relevant time. The



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ected Society has promoted the petitioner in the post of Secretary. Challenging the same, the 4<sup>th</sup> respondent has filed a revision petition before the second respondent and the second respondent vide its order dated 31.05.2017 cancelled the promotion given to the petitioner. Challenging the same, the Society as well as the petitioner filed writ petitions in W.P(MD).Nos.12072 and 12047 of 2017. This Court vide its order dated 20.08.2019 quashed the impugned order and allowed the writ petitions on the ground of violation of principles of natural justice by directing the fourth respondent to implead the petitioner as a party respondent in the revision and remanded the matter back to the second respondent to pass appropriate orders after providing opportunity to the petitioner and the fourth respondent. Pursuant to which, the present impugned order has been passed on 17.12.2019. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the 4<sup>th</sup> respondent was appointed as Salesman in the year 1992 and the said appointment is irregular since the 4<sup>th</sup> respondent has not acquired basic



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qualification and without basic qualification, he continued in the employment as Salesman. Hence, the petitioner was considered for the post of Secretary by the Competent Authority namely the elected Society. The Elected Society appointed the petitioner as Secretary in the Society and it was questioned by the 4<sup>th</sup> respondent before the Revisional Authority. However, the Revisional Authority/second respondent allowed the revision petition filed by the fourth respondent on the ground that the 4<sup>th</sup> respondent is the senior most person in the Society and has held in his favour, without considering the educational qualification possessed by the petitioner. Since the petitioner is a Degree holder and the fourth respondent has only completed 10<sup>th</sup> standard, he cannot be compared with the petitioner. Hence, the promotion given by the Elected Society is based on the merits and impugned order passed by the second respondent is liable to be quashed.

4. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the 4<sup>th</sup> respondent was appointed as Salesman in the year 1992 and his service was regularized in the year 2001 and he is having all minimum qualification to the post of Secretary. The



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petitioner was appointed only in the year 2010. Hence, the 4<sup>th</sup> respondent is a senior most person to the petitioner. Therefore, there is no fault in the order passed by the second respondent.

5. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.G.Thalaimuthurasu, learned counsel appearing for the fourth respondent.

6. The facts in the present case are not in dispute. The undisputed facts are that the petitioner was appointed as Salesman in the year 2010 whereas the 4<sup>th</sup> respondent was appointed as Salesman in the year 1992. On 14.12.2015, the post of Secretary was felt vacant. At the relevant point of time, there were six eligible candidates and all the persons were working as Salesman in the respondent Society. Initially, the Elected Society has appointed the petitioner as Secretary, against which, the fourth respondent has preferred a revision petition before the second respondent and the second respondent, considering the seniority, has appointed the fourth respondent as Secretary.



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7. The Bylaw of the Society for promotion makes it clear that “all promotions from one category of post to the immediate next higher category of post shall be made only from the respective feeder category of post and on the basis of seniority subject to the rejection of unfit with reference to merit and ability”. Therefore, the promotion from one category of post (Salesman) to the immediate next higher category of post (Secretary) shall be made only from the respective feeder category of post based on the seniority. The 4<sup>th</sup> respondent is the senior most person in the Society, whereas at the relevant point of time, the petitioner has only five years experience. Even as per bylaw, the 4<sup>th</sup> respondent is the eligible person to the next higher category. However, the fact remains that both the petitioner and the 4<sup>th</sup> respondent are eligible to the post of Secretary. But, the 4<sup>th</sup> respondent is the senior most person in the Society. Hence, the second respondent/Revisional Authority has rightly set aside the promotion of the petitioner and it cannot be interfered with.



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8. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

ssb

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2. The Joint Registrar of Co-operative Societies,  
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**M.DHANDAPANI,J.**

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