



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.01.2022**

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P (MD) .No.1614 of 2014

S.Latha

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Pudukkottai.

2.The President,
TA 70, Manamelkudi Primary
Agricultural Co-operative Society Limited,
Manalmelkudi,
Manalmelkudi Post and Taluk,
Pudukkottai District-614 620.

3.The Special Officer, now transferred to
The Deputy Registrar,
Co-operative Society,
Near Kamachiamman Temple,
Aranthangi Taluk,
Pudukkottai District.

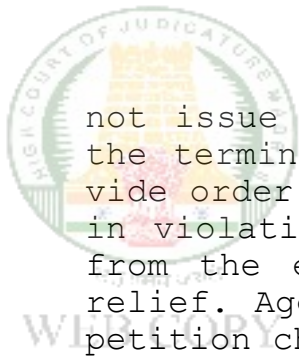
... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the award passed in I.D.No.73 of 2001 dated 30.06.2008 and quash the same and consequently directing the second respondent herein to reinstate the petitioner with full back wages and all other attendant benefits and secure the reinstatement of the petitioner in the respondent's establishment with all consequential benefits the petitioner entitled under law.

For Petitioner	: Mr.B.Babu
For R1	: Labour Court
For R2 & R3	: Mr.D.Sachi Kumar
	Additional Government Pleader

O R D E R

The petitioner was appointed as attender on daily wages in the respondent establishment in a permanent post. The appointment was made through Resolution No.5, dated 15.12.1998 of the Board of Management. The petitioner's employment was terminated from 15.07.2000 on the ground that the petitioner was not appointed by calling the list from the employment exchange. The respondents did



not issue any notice before termination. The petitioner challenged the termination order before the Labour Court and the Labour Court vide order dated 30.06.2008 has held the petitioner's appointment is in violation of statutory rules since the list was not called for from the employment exchange and the petitioner cannot claim any relief. Aggrieved over the same, the petitioner preferred this writ petition challenging Labour Court's order.

2. The respondents have filed counter stating that the petitioner was an irregular appointee under Rule 149(2) of TNCS Rules, 1988. In that Society should call for the list from the employment exchange and thereafter, the eligible candidates should be appointed. Since the petitioner was not called from the employment exchange, the petitioner is not eligible for appointment and hence the petitioner's service was terminated.

3. Heard the learned counsel for the petitioner and Government Pleader for the respondents and perused the materials on record.

4. The contention of the respondents that the petitioner's name was not called from Employment Exchange and hence the appointment is illegal. Expect for the sole ground there is no other ground in the counter. The petitioner has relied judgment rendered in W.P.No.21440 of 2015 dated 19.02.2021, where this court has held as under:

"16. This is an unfortunate case where luck has played its part. The Government took a decision to regularise the services of nearly 35,000 employees who were appointed in various Co-operative Societies by drawing a cut-off dated as 12.03.2001 and out of the same, the lucky 26,000 employees got their services regularised and the rest of the employees were facing the wrath of their destiny. They were eagerly expecting their services to be regularised like that of the similarly place employees but bad luck came in their. The process of regularization was undertaken even for the petitioners and due to various administrative delays, it did not reach its logical end. By then there were huge shift in law with regard to illegal and irregular appointments. ...

"37. In view of the above discussion, all the Writ Petitions are disposed of with the following directions:

a. All those Petitioners/Respondent Employee, as the case may be who have at the time of their appointment, fulfilled their educational qualification, who have been appointed in a sanctioned post within the cadre strength, and are in regular scale of pay, are declared to have satisfied the substantial/mandatory qualification prescribed under Rule 149 (1) of the

Rules:



b. The appointments not being sponsored by the employment exchange, as prescribed under Rule 149(2) of the Rules, will only make the appointments irregular and no illegal;

c. All those Petitioners/Respondent Employee, as the case may be who have fulfilled the criteria stipulated in Clause (a), shall be regularised by the Respondents by issuing appropriate proceedings within a period of 8 weeks from the date of receipt of copy of this order by taking the cut off-date as 12.03.2001;

d. The regularization of service of the Petitioners/Respondent Employee, as the case may be will not entail them with any additional monetary benefits except the consequential benefit which flows from such regularization; and

e. The benefit of regularization that is extended to the eligible Petitioners/Respondent Employee, as the case may be shall also be extended to all those employees who are similarly placed even though they have not knocked the doors of this Court.

Accordingly, the batch of writ Petitions are disposed of. No costs. Consequently, all connected miscellaneous petitions are closed."

5. Admittedly, the petitioner is appointed on 15.12.1998 without calling for the list from the employment exchange. There is no other violation and the petitioner is qualified to be appointed to the said post. The society is having sanctioned post. This Court is of the considered opinion, the petitioner is eligible for the benefit as stated in the judgment rendered in W.P.No.21440 of 2015. Therefore, this Court directs the respondents to regularise the petitioner's service. As far as backwages is concerned the petitioner is entitled to 25% of back wages for the period the petitioner has not worked. However, the petitioner is entitled to service benefits for the entire period including the period the petitioner has not worked.

6. With the above directions, the Writ Petition is disposed of. No costs.

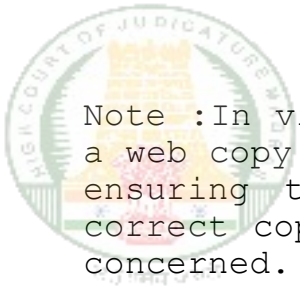
Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar (CS)



Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

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Pudukkottai District.

+1 CC to M/s.SPL.GP (SR-2010[F] dated 21/01/2022)

+1 CC to M/s.B.BABU, Advocate (SR-1861[F] dated 20/01/2022)

W.P(MD)No.1614 of 2014
20.01.2022

RK(15/02/2022) 4P 6C