



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.15038 of 2015

and

M.P (MD) No.1 of 2015

M.S.Rajendran

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
Kilpauk,
Chennai.

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

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the second respondent in Na.Ka.14649/2009K, dated, 20.10.2014 and quash the same and direct the respondents to confer all the consequential benefits.

For Petitioner : Mr.Chamundi Bose

For Respondents : Mr.P.Thambi Durai

Government Advocate(Civil Side)

ORDER

This present writ petition has been filed to quash the impugned order, dated, 20.10.2014 and to confer all the monetary benefits.

2. The brief facts of the case are that the petitioner was appointed as Junior Assistant through Tamil Nadu Public Service Commission (TNPSC) and posted at Employment Office at Thanjavur District on 10.01.1985. However, the petitioner participated in Group II examination. He was selected and appointed as a Senior Inspector and posted at Deputy Register of Co-operative Society, Vellore. Thereafter, he was transferred to Thanjavur in the year 1990. The petitioner was promoted as Sub-Registrar of Co-operative Societies in the year 1996. In the meantime, the petitioner married one Karpagam in the year 1990. The petitioner's wife is qualified as D.Pharm in the year 1987 and registered her name in Tamil Nadu Pharmacy Counsel on 17.11.1987. She is fully qualified to run



Pharmacy and she registered and obtained license in her name and started a medical shop in the year 1996 in the name and style of Surya Raghavi Medicals at Papanasam. Through her earnings, she purchased a property in Door No.33, South Main Road, Papanasam to run the Medical Shop and the same was registered on 22.06.2006 through a registered sale deed Doc.No.8670 for valid consideration of Rs.7,15,000/- (Rupees Seven Lakhs Fifteen Thousand only). The second respondent issued a Charge Memo on 19.09.2011 in two counts. The first Charge is that without obtaining any permission from the Government, the petitioner is running medical shop in the name of his wife for the past 14 years. The second Charge is that without obtaining permission from the department, the petitioner has purchased the property situated in No.33, South Main Road, Papanasam for a sale consideration of Rs.7,15,000/- (Rupees Seven Lakhs Fifteen Thousand only). The petitioner submitted a detailed reply on 26.02.2013. The enquiry officer was appointed and he submitted his report on 27.05.2013 that charges are proved. Thereafter, the second respondent passed the punishment order, imposing major punishment of reversion from the post of Sub-Registrar to Senior Inspector. Aggrieved over the same, the present writ petition has been filed.

3. The learned Government Advocate submitted that the petitioner had preferred appeal before the first respondent and the same is pending. The criminal proceedings was also initiated against the petitioner and the same was also pending for adjudication. Therefore, they prayed to dismiss the writ petition and directed the petitioner to seek relief before the first respondent and the petitioner cannot maintain two petitions for the same cause of action.

4. Heard Mr.Chamundi Bose, learned counsel appearing for the petitioner and Mr.P.Thambi Durai, learned Government Advocate(Civil Side) appearing for the respondents and peruse the records.

5. It is an admitted fact that the petitioner married one Karpagam in the year 1990. The said Karpagam is a qualified D.Pharm and she has passed in the year 1987 and registered the same in Tamil Nadu Pharmacy Counsel on 17.11.1987. The contention of the petitioner is that his wife on her personal capacity, started a medical shop in the year 1996 and she has purchased a shop in Door No.33 for a sale consideration of Rs.7,15,000/- (Rupees Seven Lakhs Fifteen Thousand only) on 22.06.2006. The allegation against the petitioner is that the petitioner is running a medical shop and he has purchased a property with his own name and he has not intimated the fact of running a medical shop and purchasing a property. The contention of the petitioner is that the petitioner is not running a medical shop, but his wife is running a medical shop and based on her own earnings, his wife had purchased the property for medical shop.



6. This Court is of the considered opinion, when the petitioner's wife is having an independent qualification of D.Pharm and she has every right to pursue that vocation. The petitioner's wife is running the Medical Shop in her own name and in her own personal capacity. Since because the petitioner's wife is running a medical shop, it cannot be attributed that the petitioner is running a medical shop. The petitioner has circulated the assets and liabilities, balance sheet and Income Tax Returns for 2002-2006. It is shown in the document that the petitioner has availed Bank Loan from State Bank of India for purchase of property. The petitioner's wife is running a medical shop for the past 14 years. Therefore, it can be safely concluded that the petitioner's wife has obtained house loan from State Bank of India based on her personal financial status by running a Medical Shop and from that income, she has purchased the property. The respondents cannot fasten any allegation without evidence that the petitioner has purchased the property. The respondents have over stepped their limits and initiated the proceedings. The petitioner is already 56 years old at the time of filing this writ petition. He has already attained superannuation. Based on the criminal proceedings, the petitioner was not granted any terminal benefits. The learned Government Advocate submitted that there is an alternative remedy before the Registrar and the petitioner has already availed the alternative remedy.

7. However, this Court is of the considered opinion that even if there is an alternative remedy, the petitioner is 56 years old at the time of filing this writ petition and has attained superannuation. The petitioner need not undergo unnecessary litigations before any authorities. This Court is entertaining the writ petition and the impugned order is set aside and the respondents are directed to fixing the petitioner to his original post i.e., Sub-Registrar and pay all attendants benefits to the post. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. With these directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /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.



To

1.The Registrar of Co-operative Societies,
Kilpauk,
Chennai.

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

+1 CC to M/s.CHAMUNDI BOSE, Advocate (SR-15385[F] dated
30/03/2022)

+1 CC to M/s.SPL GP (SR-15339[F] dated 30/03/2022)

W.P. (MD) .No.15038 of 2015
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MGJ(26.04.2022) 4P 5C