



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.9515 of 2017

and

W.M.P. (MD)No.8376 of 2017

WEB COPY

M.R.Vidya

... Petitioner

vs.

1.The Deputy Registrar of Co-operative Societies,
Collectorate Complex,
Velunachiyar Valagam, Palani,
Dindigul District.

2.The President,
Pannaikadu PrimaryAgricultural Co-operative Bank,
Pannaikadu, Kodaikanal Taluk,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records on the file of the respondents relating to the order passed by the first respondent in Na.Ka.1082/2016 Vi.Sa., dated 31.05.2016 and to quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvan

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records on the file of the respondents relating to the order passed by the first respondent in Na.Ka.1082/2016 Vi.Sa., dated 31.05.2016 and to quash the same.

2.In the impugned order, the first respondent has sought further clarification from the second respondent regarding the petitioner's father's particulars for regularization.

3.The brief facts of the case are that the petitioner is seeking compassionate appointment based on the employment of her father, namely, M. Radhakrishnan. The said Radhakrishnan was appointed on 25.11.1982 as Packer in the Fair Price Shop and continued to work as Salesman in the second respondent Stores and while in service he died on 06.02.2003. The petitioner's mother submitted an application on 04.01.2006 for compassionate ground. Since the second respondent has not granted it, the petitioner



submitted an application to the District Collector on 01.12.2008. In the meanwhile, the daughter of the deceased had attained 18 years and presented a petition to the District Collector and the petitioner's mother also submitted a consent letter. The deceased Radhakrishnan had worked in the second respondent Co-operative Stores for 24 years and his employment was not regularized in view of the non fixation of cadre strength. However, the said Radhakrishnan was appointed through employment exchange, after interview and verification of certificates. The second respondent passed a resolution on 31.07.2015 and appointed the petitioner and forwarded the proposal to the second respondent with necessary records to grant permission. The first respondent through the letter, dated 31.05.2016, has rejected the proposal on the ground that details of service regularization is necessary.

4. In the year 2008, the cadre strength was fixed by the Registrar of Co-operative Society, through the proceedings, dated 01.12.2008. As on date, 7 approved Salesman post, 2 Salesman Assistant post, 2 Accountant Post, 1 Manager post, totally, 7 persons are eligible to work in the Society. However, at present, one Manager, one Clerk and one Watchman are working. Since the petitioner was not approved for the compassionate appointment, the petitioner has preferred this Writ Petition.

5. The respondents have filed a counter affidavit stating that the deceased Radhakrishnan worked as Packer from 25.11.1982 and while in service he died on 06.02.2003 and worked continuously for 25 years. The said Radhakrishnan was appointed through employment exchange and was possessing all necessary qualifications. Due to non fixation of cadre strength, his service was not regularized. In the meanwhile, the petitioner, who is the daughter of the deceased Radhakrishnan submitted a representation, dated 04.01.2006, seeking compassionate appointment on attaining her majority. At the age of 18, she was appointed on compassionate appointment on 31.07.2015 on consolidated wages. Since there was no order of regularization for the petitioner's father, the petitioner appointment could not be approved. The Government has approved the cadre strength in Na.Ka.139108 and has granted one Manager, one Writer, one Night Watchman, 7 Salesmen and 2 Packers, totally, 12 and presently, the second respondent is working with a strength of 10, including the petitioner and the petitioner is working as Saleswoman in the approved vacancy.

6. Heard Mr. V.O.S. Kalaiselvan, learned Counsel appearing for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

7. This Court while considering the case of regularization of employees in Cooperative Society in W.P.No.21440 of 2020, has held



"16. This is an unfortunate case where luck has played its part. The Government took a decision to regularize the services of nearly 35,000 employees working in various Societies by drawing a cut-off date as 12.03.2001 and out of the same, the lucky 26,000 employees got their services regularized. The rest of the employees were facing the wrath of their destiny. They were eagerly expecting their services to be regularized like that of the similarly placed employees but bad luck came in their way. 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 was a huge shift in law with regard to illegal and irregular appointments. This started from Umarani's case (cited supra). The Hon'ble Supreme Court came down very heavily on irregular appointments through back door entry which was putting a heavy financial burden on the Cooperative Societies.

This judgement virtually stopped any further processing for regularization of the left out employees. It came to a grinding halt after the judgement of the Full Bench in R. Rathakrishnan (cited supra).

.....

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 not 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 benefits 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."

8.This Court is following the judgment rendered supra as far as the regularization of the said Radhakrishnan. Therefore, the respondents are directed to regularize the petitioner's father based on the second respondent's proposal, dated 31.07.2015. After the regularization, the respondents are directed to approve the compassionate appointment granted to the petitioner on 31.07.2015. The first respondent is directed to approve the appointment of the petitioner, considering the second respondent's resolution, dated 31.07.2015. The said exercise shall be completed within a period of six weeks from the date of receipt of the copy of the order.

9.With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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 Deputy Registrar of Co-operative Societies,
Collectorate Complex,
Velunachiyar Valagam, Palani,
Dindigul District.

2.The President,
Pannaikadu Primary Agricultural Co-operative Bank,
Pannaikadu, Kodaikanal Taluk,
Dindigul District.

+1 CC to M/s.SPL GP (SR-5305[F] dated 10/02/2022)

W.P. (MD)No.9515 of 2017
09.02.2022

RS (01.03.2022) 4P-4C