



W.P.(MD)No.28590 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28590 of 2022

and

WMP(MD)Nos. 22590 and 22591 of 2022

K.Neelakandan

... Petitioner

Vs.

1.The Chairman / Joint Registrar,
Kanyakumari District Recruitment Bureau
for Cooperative Societies,
Block No.14, 2nd Floor,
Collectorate Annex Building Nagercoil,
Kanyakumari District.

2.The Secretary,
No.Y-213 Chiramadam Primary Agricultural
Co-operative Bank Ltd.,
Azhagiapandipuram Post,
Kanyakumari District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire



W.P.(MD)No.28590 of 2022

records relating to the impugned Notification No.1/2022, dated 13.10.2022 issued by the 1st respondent and quash the same as illegal insofar as one post of salesman notified in respect of 2nd respondent society and consequently direct the respondents herein to accommodate the writ petitioner in the post of salesman available in the 2nd respondent society as per the undertaking letter dated 15.11.2010 given before the Assistant Commissioner of Labour, Nagercoil.

For Petitioner : Mr.AL.Kannan

For Respondents : Mr.A.Baskaran

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned Notification dated 13.10.2022, issued by the 1st respondent and to quash the same insofar as one post of salesman notified in respect of 2nd respondent society and consequently direct the respondents to accommodate the writ petitioner in the post of salesman available in the 2nd respondent society, as per the undertaking letter dated 15.11.2010, given before the Assistant Commissioner of Labour, Nagercoil.



W.P.(MD)No.28590 of 2022

WEB COPY

2. The case of the petitioner is that he was appointed as Helper in the Chiramadam Fair Price Shop Depot in a time scale of pay of Rs.150/- in the year 1988, through employment exchange. Later, his service was regularised. Pursuant to the resolution dated 24.01.1996, passed by No.Y-213 Chiramdam Primary Agricultural Co-operative Bank Limited, the then Special Officer of the said Society promoted the petitioner from the post of Helper to Salesman vide proceedings dated 08.04.1996. While so, without assigning any reason and without conducting any enquiry, terminated the petitioner from service. Hence, the petitioner has raised an industrial dispute and an enquiry was conducted by the Assistant Commissioner of Labour, Nagercoil on 25.02.2009. During the enquiry, the representative of the said Society made an allegation that the petitioner has misappropriated a sum of Rs.16,811.25/-. Pending enquiry, the second respondent Society voluntarily come forward to file an undertaking before the Assistant Commissioner of Labour, Nagercoil in its letter dated 10.11.2010, stating that since the society was running on loss of Rs.43.83 lakhs and there was no vacancy as on date and if any



W.P.(MD)No.28590 of 2022

WEB COPY

vacancy arose in future, they would accommodate the petitioner in the said post. Contrary to the said undertaking, the present notification has been issued in order to fill up the posts in the second respondent society. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the petitioner has filed an application challenging the termination order issued by the second respondent society before the Labour Court, Nagercoil in the year 2010, at the relevant point of time, there was no vacancy in the second respondent society and on that basis, the second respondent society has given an undertaking before the Assistant Commissioner of Labour and the same was freezed now, which is not sustainable one. Hence, he prayed for allowing of this writ petition.

4. The learned Additional Government Pleader appearing for the respondents would submit that as on date, recruitment procedure changed and the same was handed over the recruitment agency for filling up the posts of Co-operative society. Further, the second respondent society



W.P.(MD)No.28590 of 2022

have no power to give an undertaking before the Assistant Commissioner of Labour, Nagercoil and once the termination order is passed, the disciplinary authority have no power to revoke the order and all the appointments in respect of the co-operative societies only through recruitment agency and the earlier undertaking given by the second respondent society not binding on the recruitment agency. Hence, he prayed for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. The present writ petition has been filed challenging the notification issued by the first respondent dated 13.10.2022, mainly on the ground that the second respondent society has given an undertaking before the Assistant Commissioner of Labour, Nagercoil that if any vacancy arose in future, they would accommodate the petitioner in the said post. However, once the termination order is passed by the disciplinary authority, the second respondent society have no power to



W.P.(MD)No.28590 of 2022

revoke the termination order or give an undertaking before the authority.

Admittedly, the entire selection process only through recruitment bureau and the grievance expressed by the petitioner cannot be considered. Hence, this Writ Petition is dismissed. However, liberty is granted to the petitioner to work out the remedy in respect of the earlier termination order issued by the respondent Society. No costs. Consequently, the connected Miscellaneous Petitions are closed.

21.12.2022

akv

To

- 1.The Chairman / Joint Registrar,
Kanyakumari District Recruitment Bureau
for Cooperative Societies,
Block No.14, 2nd Floor,
Collectorate Annex Building Nagercoil,
Kanyakumari District.
- 2.The Secretary,
No.Y-213 Chiramadam Primary Agricultural
Co-operative Bank Ltd.,
Azhagiapandipuram Post,
Kanyakumari District.

6/7



WEB COPY



W.P.(MD)No.28590 of 2022

M.DHANDAPANI,J.

akv

W.P.(MD)No.28590 of 2022

21.12.2022