



Writ Petition No.2000 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No. 2000 of 2021

and

WMP.Nos.2263 & 2266 of 2021

M.Arun
S/o.Mohan

...Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Co-operation, Food and Consumer Protection (CH.2),
Department, Fort St.George, Chennai – 600 009.
2. The Tamil Nadu Co-operative Societies,
Rep. by its Registrar,
N.V.Natarajan Maligai,
No.170, Periyar E.V.R.High Road,
Kilpauk, Chennai – 600 010.
3. Joint Registrar,
Tamil Nadu Co-operative Societies,
Coimbatore Region, Coimbatore District.
4. Deputy Registrar,
Tamil Nadu Co-operative Societies,
Coimbatore Circle,
Coimbatore – 641 008.

... Respondents



Writ Petition No.2000 of 2021

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned memo made in Na.Ka.No.5951/2018/Pa1 dated 05.12.2019 passed by the 3rd respondent, quash the same and consequently, the respondents may be directed to declare the petitioner's probation with effect from the month of May 2017, the last departmental examination in terms of appointment order dated 28.06.2013 issued by the 2nd respondent with all attendant benefits.

For Petitioner : Mr.G.Ethirajulu
For Respondents : Mr.Ru.Dinesh Raj Kumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the memo issued by the third respondent in Na.Ka.No.5951/2018/Pa1 dated 05.12.2019 and for a consequential direction to the respondents to declare the petitioner's probation with effect from May'2017 and to pay all the attendant benefits.

2. The case of the petitioner is that he was appointed as a Senior Inspector by the second respondent through order dated 28.06.2013. The posting order was issued by the third respondent on 10.07.2013. The petitioner joined duty in the office of the fourth respondent on 15.07.2013.



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3. As per Rule 9 of the Special Rules for the Tamil Nadu Cooperative Subordinate Service [hereinafter referred to as "the Special Rules], a directly recruited Senior Inspector of the Cooperative Societies should complete his probation in two years within a continuous period of three years. Further, as per Rule 11 of the Special Rules, a directly recruited Senior Inspector should also pass all the departmental tests and the Tamil Nadu Office Manual test conducted by Tamil Nadu Public Service Commission within the period of probation. That apart, under Rule 10 of the Special Rules, a directly recruited Senior Inspector of the Cooperative Societies should undergo training in General Basic Course at any one of the institutions of Cooperative Management in Tamil Nadu and pass in all the tests conducted at the end of the training within the period of probation. If the candidate does not pass, the second and subsequent increments will be stopped till he passes the above said tests.

4. The further case of the petitioner is that he had submitted an application for writing the TNPSC departmental examination during May'2017 and he also passed the examination and it was entered in the service book. The petitioner's probation was extended twice to acquire the



qualification. The petitioner was able to pass the departmental examination only during the period of extended probation. The petitioner did not complete the higher diploma in co-operative management training. Hence, the third respondent issued the impugned memo dated 05.12.2019 calling upon the petitioner to show cause as to why he should not be discharged from service for not completing the higher diploma in co-operative management, as per the Special Rules.

5. The petitioner, after receiving the impugned memo issued by the third respondent, submitted a detailed explanation on 17.11.2020 along with all the necessary certificates including the certificate issued for completing the higher diploma in cooperative management. Since the same was not considered and the probation of the petitioner was not declared, the present writ petition has been filed before this Court.

6. The respondents have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

"11. It is submitted that in order to qualify himself and to pass the remaining Departmental examinations conducted by the Tamil Nadu Public Service Commission and to complete



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Writ Petition No.2000 of 2021

the Higher Diploma in Co-operative Management training successfully to get the probation declared, the probation period of the probationer was extended twice by the concerned appointing authority ie., one year from 15.07.2016 to 14.07.2017 vide Joint Registrar (Finance and Banking), Office of the Registrar of Co-operative Societies, Chennai - 600 010 (for the brevity JR (F&B)) Proceedings, dated 23.12.2016 and another year from 15.07.2017 to 14.07.2018 vide Joint Registrar (Finance and Banking) Proceedings, dated 17.08.2017 only on humanitarian grounds.

12. It is submitted that the petitioner has passed the remaining Departmental examinations ie., Co-operative Auditing-I paper (May 2017), Co-operative Management and Administration-I and II paper (May 2017), Co-operation-I and II (May 2017) and Tamil Nadu Government Office Manual (May 2017) during the extended period of probation. But he has not completed the Higher Diploma in Co-operative Management training successfully, which was conducted by Natesan Institute of Co-operative Management, which is an institution run by the National Council for Co-operative Training, New Delhi.

13. It is submitted that the petitioner has again approached the training institute and appeared for the Higher Diploma in Co-operative Management course examination during 14.11.2019 to 22.11.2019 and successfully completed the training course and he has yet to report the same before the appointing authority.

14. It is submitted that in the meantime, the third respondent, being the appointing authority, has sent a proposal vide his Rc.No.5951/2018, P1, dated 28.11.2018 to the second respondent, being the Head of department, seeking orders of the first respondent by extending the probation period beyond five years on humanitarian grounds to the petitioner. Accordingly, a proposal has been sent to the first respondent by



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Writ Petition No.2000 of 2021

the second respondent vide his Rc.No.76769/2018 EM3, dated 01.04.2019 and the same is under process in the office of the first respondent. The first respondent has sought copies of documents in proof of passing the examination conducted by the institute at the end of training course (Higher Diploma in Co-operative Management course) by the petitioner, which is pending with the petitioner. In the meantime, the petitioner has filed this writ petition before the Hon'ble High Court without representing before the Head of the department or the Government.

15. It is submitted that the petitioner has alleged that the result of the same was not communicated and therefore he was not aware of the result. In this connection, it is submitted that the result of Higher Diploma in Co-operative Management training was published by the Natesan Institute of co-operative Management, Chennai and it is the responsibility of the petitioner to know the results from Natesan Institute of Co-operative Management and to report the same to the concerned Head of office so as to make necessary entries in his Service Book. Normally, the concerned Institute will hand over the certificate of completion of training successfully, directly to the individuals. Further those Senior Inspectors who were deputed to undergo the same training along with the petitioner had reported the same to their concerned Head of office for making necessary entries in their service book. The contention of the petitioner that he was not aware of the result itself shows his lethargic attitude towards completion of probation. As such, the contention of the petitioner in this regard is denied and liable to be dismissed.

16. It is further submitted that the contention of the petitioner is that he had completed all the test and training as contemplated in terms and conditions of the original appointment order, Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and Tamil Nadu Co-operative Subordinate Service Special Rules. In this



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Writ Petition No.2000 of 2021

connection, it is submitted that the above contention of the petitioner is denied and liable to be dismissed as the petitioner had not completed the General Basic Course training ie., Higher diploma in Co-operative Management (HDCM) course within the period of Probation as well as in the extended period of Probation as per rule 10 of the Special Rules for Tamil Nadu Co-operative Subordinate service."

7. Heard Mr.G.Ethirajulu, learned counsel for petitioner and Mr.Ru.Dinesh Raj Kumar, learned Additional Government Pleader, appearing for the respondents.

8. The limited issue that requires the consideration of this Court is as to whether the services of the petitioner is liable to be discharged on the ground that he was able to submit the certificate only after the completion of the Co-operative Management Training, after the period of probation.

9. The petitioner had taken a very specific stand that the result of the higher diploma in Cooperative Management was communicated to him with a delay by the concerned institute and hence, this delay should not be put against the petitioner and he should not be discharged from his service.



10. The respondents, in their counter affidavit, have taken a stand that already proposal has been sent to the first respondent by the second respondent through letter dated 01.04.2019 and permission has been sought for to extend the period of probation beyond five years, as a special case. It is brought to the notice of this Court that the proposal that was sent by the second respondent is yet to be acted by the first respondent and it is pending.

11. Taking into consideration the facts and circumstances of the case and also the fact that the petitioner has already completed the tests and has been working in the fourth respondent Society for the last nine years, it will be fit and proper if the petitioner's probation is declared and he is made entitled for other benefits. This action can be taken by the third respondent only if the first respondent acts upon the proposal that was already sanctioned by the second respondent on 01.04.2019 and extends the period of probation of the petitioner.

12. In the light of the above discussion, this Writ Petition is disposed of with a direction to the first respondent to act upon the proposal sent by



Writ Petition No.2000 of 2021

the second respondent *vide* Rc.No.5951/2018,P1, dated 28.11.2018 and appropriate orders shall be passed extending the period of probation of the petitioner, as a special case. Such order shall be passed by the first respondent within a period of four (4) weeks from the date of receipt of a copy of this order. On receipt of the order from the first respondent, the third respondent shall act upon the same and the probation of the petitioner shall be declared and he shall be given all the attendant benefits.

This writ petition is disposed of with the above directions. No costs.
Consequently, connected miscellaneous petitions are closed.

06.02.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm



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Writ Petition No.2000 of 2021

N.ANAND VENKATESH, J

gm

To

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Department, Fort St.George, Chennai – 600 009.
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Writ Petition No. 2000 of 2021

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