



W.P.No.21365 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21365 of 2015

The Management
The Thiruvallur District Consumer
Cooperative Wholesale Stores,
No.155/4, J.N.Road,
represented by its Managing Director
Thiruvallur.

... Petitioner

-Vs-

1. K.Saravanan
2. N.Jothi
3. P.Maheswari
4. M.Kalaivani
5. D.Bharathivel
6. S.Uma Maheswaran
7. R.Venkataraman
8. S.Karthikeyan
9. S.Gunasekharan
10. K.Sekhar
11. R.T.Gowri
12. M.Dhandapani
13. R.Jayalakshmi
14. R.Sekhar
15. G.Babu
16. S.Manjula
17. D.Kumar
18. A.Hari
19. D.Sivakami
20. C.Shanthi
21. M.Narayanan



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22. C.Vanjiammal

23. E.M.Babu

24. K.Thiagarajan

25. The Inspector of Labour,
Tiruvallur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, call for the records relating to the passing of the order in Pa.Mu.No.A/1044-A to X/2013 dated 25.07.2014 on the file of the Inspector of Labours, Tiruvallur and quash the same.

For Petitioner : Mr.L.P.Shanmugasundram

For Respondents

R1 to R4,

R6 to R10, R12,

R14 to R18,

R22 to R24 : Mr.N.Balamurali Krishnan

R5, R11, R13

R19 to R21 : Mr.V.Vijay Shankar
for Mr.V.Rajinikanth

ORDER

This Writ Petition has been filed challenging the order of the 25th respondent, thereby directed the petitioner and ordered that the respondents 1 to 24 should be regularized from the date of their joining and they should be treated as permanent employees.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 to 24 and perused the materials available on record.



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3. The respondents 1 to 24 were appointed as salesmen in the petitioner's stores on daily wages for 50% per day from 16.03.2000 by the Resolution No.13. They were all appointed illegally without sponsorship from the concerned employment exchange and in contravention of Rule 149 (2) of Tamil Nadu Co-operative Societies Rules, 1988. All the appointments were subjected to the provisions under Section 149 and 152 of Tamil Nadu Co-operative Societies Act, 1988. The appointment was made in order to meet the contingency in the petitioner's stores and as such contingency ceased to exist and does not prevail now to warrant continuance of the temporary employment of the respondents 1 to 24 herein. They were not regular employees for the reason that they were not appointed through employment exchange. That apart, their appointment were outside the cadre strength and as such in view of the Judgment of the Hon'ble Supreme Court of India in the case of *Umarani* reported in *AIR 2004 SC 4504* and in the Judgment of this Court reported in *2002 (4) CTC 385* in the case of *L.Justine*, in which the Hon'ble Supreme Court of India held that the powers and functions of the Co-operative Societies in relation to the appointments and service conditions are exhaustively considered and also held that the settlement entered under Sections 12 or 18 thereof, shall have no application to the staff of the co-operative societies appointed without adequate qualifications or beyond the cadre strength for the



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period from 09.07.1980 to 11.03.2001. This is equally applicable to the staff appointed to the co-operative societies, otherwise than through employment exchange, for the period from 12.03.2001 onwards.

4. The learned counsel for the petitioner relied upon the Judgment of this Court in a batch of W.P.No.21440 etc of 2020 dated 19.02.2021 and as per the Judgment, the Registrar of Co-operative Societies issued a circular dated 09.09.2021, thereby stated that the transitory special by-law shall take with retrospective effect from 22.04.2021.

5. The learned counsel for the petitioner filed a memo stating that the respondents 12 and 17 died long back.

6. A perusal of the counter filed by the respondents revealed that the respondents 1 to 24 are the employees of Thiruvallur District Consumer Co-operative Wholesale Stores Limited at Thiruvallur. Pursuant to the bifurcation of the Kancheepuram district into Kancheepuram and Thiruvallur districts, there was necessity to start a Consumer Co-operative Wholesale Stores specifically for Thiruvallur District. Therefore, 18 persons were appointed directly by the said society in the year 1999. The rest of the persons working in



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the petitioner's society numbering 6 were transferred to the petitioner's society, after the society in which they were originally appointed became defunct in the year 2000. Right from the date of their appointment, all are continuously working in the petitioner's society without any break. The respondents had completed 480 days of service in two calendar years from the date of their joining. However, their service were not regularized and they have been treated as daily wages employees. Thereafter, they were brought on regular time scale of pay. Therefore, the respondents approached this Court, by way of a writ petition in W.P.No.21685 of 2013 and they were given liberty to approach the authorities seeking regularization of their service. Accordingly, they approached the 25th respondent under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act.

7. Admittedly, the respondents 1 to 24 were continuously in service for a period of 480 days in the given two calendar years. Therefore, the judgments cited by the learned counsel for the petitioner are not applicable to the case on hand and the 25th respondent had rightly ordered to regularize the service of the respondents 1 to 24 herein that they are eligible for permanent status for completion of 480 days from the date of their joining and they shall be treated as permanent employees.



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WEB COPY 8. Therefore, this Court finds no infirmity or illegality in the order passed by the 25th respondent and this writ petition is devoid of merits and liable to be dismissed. The petitioner is directed to implement the order passed by the 25th respondent, within a period of eight weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition stands dismissed. No costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

The Inspector of Labour,
Tiruvallur.

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