



WEB COPY



W.P.No.29439 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

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

W.P.No.29439 of 2011

and

M.P.No.1 of 2011

M.Mayandi

... Petitioner

-Vs-

1.The Joint Registrar of Co-operative Societies,
N.V.N.Maligai,
Kilpauk, Chennai- 600 010.

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

3. The Dy. Registrar of Co-operative Societies,
Tirunelveli District.

4. The Kallidaikurichi Co-operative Urban Bank,
At Kallidaikurichi,
Tirunelveli Dstrict.
rep. by its Special Officer

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for records of the respondents, particularly that of the 1st respondent dated 12.01.2010 in Na.Ka.No.134975/09-Ni.A.1 and quash the same as illegal



W.P.No.29439 of 2011

unlawful besides unsustainable in law and consequently direct the respondents to pay all such service and monetary benefits to the petitioner computable from 01.01.2000.

For Petitioner : Mr.T.S.Rajamohan
For R1 to R3 : Dr.T.Seenivasan
Special Government Pleader
For R4 : Mr.R.A.S.Senthilvel

ORDER

This Writ Petition has been filed challenging the order dated 12.01.2010 in Na.Ka.No.134975/09-Ni.A.1 passed by the 1st respondent, thereby informed to the petitioner about the consideration of his application and passing order dated 08.10.2009.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was originally working in the Madura Coats Employees Co-operative Stores at Vickramasingapuram as Sweeper-cum-Scavenger. The service of the petitioner was regularized with effect from 20.08.1980. Thereafter he was transferred to the 4th



W.P.No.29439 of 2011

WEB COPY

respondent Bank as Night Watchman. The petitioner's original appointment was strictly in accordance with Rule 149 of the Tamil Nadu Co-operative Societies Rules and subsequent transfer was affected by virtue of G.O.No.382 dated 09.05.1997. However the petitioner was not paid his salary and he was paid only daily wages. Therefore, the petitioner filed a Writ Petition before this Court in W.P.No.12018 of 1999 for a direction to the 4th respondent to absorb the petitioner as Night Watchman.

4. As directed by this Court, already the 4th respondent, by an order dated 08.10.2009, rejected the request made by the petitioner to regularize his post. However, he was granted a scale of pay as per the Circular dated 31.08.2008 issued by the Registrar of Co-operative Societies. The petitioner failed to challenge the said order. Instead of challenging the order dated 08.10.2009, the petitioner now challenged a letter issued by the first respondent, thereby he was informed that the request made by the petitioner was already rejected by an order dated 08.10.2009.



W.P.No.29439 of 2011

WEB COPY

5. That apart, a perusal of the counter revealed that the petitioner was not transferred to the fourth respondent Bank. The fourth respondent Bank is a separate Co-operative Society and the petitioner cannot claim any right to regularize his appointment by the fourth respondent. That apart, G.O.Ms.No 332 dated 09.05.1997 is not applicable to the petitioner, since he has not completed 480 days of continuous work as on 12.03.2001, since, it is applicable to the persons who had completed 480 days continuously. Whereas the petitioner had not completed 480 days continuous work as on 12.03.2001. He has actually worked for 340 days as on 12.03.2001. Therefore the fourth respondent was not in a position to regularize the service of the petitioner as Night Watchman. As per the Circular dated 21.08.2008 issued by the first respondent and the guidelines to fix time scale of pay to the irregular employees recruitment from 12.03.2001 and whose services were not regularized can be fixed in the time scale of pay subject to other conditions. Based on the said condition, the petitioner's pay was fixed as Rs.1360-140-2190-170-3890-200-5960 and one increment with effect from 01.08.2008. While fixing the scale of pay, the petitioner has given an undertaking which reads as follows:



W.P.No.29439 of 2011

WEB COPY

6. Therefore, the petitioner cannot claim to regularize his service, since his appointment is purely irregular. However he did not complete 480 days of service continuously. Therefore the Writ Petition is devoid of merits and is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

To

1. The Joint Registrar of Co-operative Societies,
N.V.N.Maligai,
Kilpauk, Chennai- 600 010.

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

3. The Dy. Registrar of Co-operative Societies,
Tirunelveli District.

4. The Special Officer
Kallidaikurichi Co-operative Urban Bank,
Kallidaikurichi,
Tirunelveli District.



WEB COPY



W.P.No.29439 of 2011

G.K.ILANTHIRAIYAN, J.

Lpp

W.P.No.29439 of 2011
and
M.P.No.1 of 2011

30.08.2023