



W.P.No.27614 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.27614 of 2015
and M.P.No.2 of 2015

V.Senkottaiyan

... Petitioner

-Vs-

1. The Revisional Authority/Joint Registrar of
Cooperative Societies,
Salem Region,
Salem-637 001.

2. No.S.479, Devannagoundanoor
Primary Agricultural Co-operative Credit
Society Ltd.,
represented by its President,
Devannagoundanoor-637 301,
Sankari Taluk,
Salem District.

3. P.Palaniappan

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the entire records relating to the impugned orders passed by the first respondent in his proceedings Na.Ka.No.5895/2014 Sa.Pa., dated 14.08.2015 and quash the same.

For Petitioner : Mr.K.Premkumar



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For Respondents

- R1 : Mr.M.P.Murugan Raja
Government Advocate
R2 : Mr.L.P.Shanmugasundaram
R3 : Ms.J.Lingitha
for Mr.M.S.Palaniswamy

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in his proceedings Na.Ka.No.5895/2014 Sa.Pa, dated 14.08.2015, thereby cancelled the petitioner's promotion of Assistant Secretary and directed the second respondent to promote the third respondent to the post of Assistant Secretary of the second respondent society.

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

3. The petitioner was appointed as a Clerk by the second respondent society with effect from 17.06.1987. Subsequently, he was promoted as Senior Clerk with effect from 17.03.1993. Thereafter, he



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was promoted as Accountant with effect from 01.07.1999, as per the Resolution dated 30.07.1999. Thereafter, the second respondent by considering the petitioner's seniority, merit and ability had promoted and appointed the petitioner as an Assistant Secretary with effect from 01.05.2013, as per resolution dated 07.05.2013. Thereafter, the order of promotion was challenged by the third respondent without adding the petitioner as a party before the first respondent. Without any notice and without giving any opportunity to the petitioner, the first respondent set aside the order of promotion and as such it was challenged by the petitioner before this Court in W.P.No.33365 of 2014. This Court, by an order dated 04.03.2015, set aside the order passed by the first respondent and remanded the matter to the first respondent, to decide the case afresh after giving an opportunity to the petitioner herein. Once again, the first respondent had set aside the order of promotion of the petitioner as an Assistant Secretary and directed the second respondent to promote the third respondent as an Assistant Secretary.

4. The learned counsel for the petitioner drew the attention of this



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Court that the second respondent requested the District Employment Exchange to sponsor the names for the post of Clerk. On receipt of such request, the Sub-Employment Office, Mettur Dam had sent the list of candidates. On receipt of the same, the second respondent society called the third respondent for interview to the post of Clerk, by the communication dated 20.09.1989 for the interview to be held on 23.09.1989 at 11.00 a.m. The third respondent attended the interview and he was appointed as a Cashier by the second respondent, with effect from 25.09.1989. However, without any qualification to the post of Assistant Secretary, the third respondent challenged the order of promotion as Assistant Secretary of the petitioner, by manipulating the resolution, as if the third respondent was selected and appointed for the post of Cashier which is above the post of Clerk. Thereafter, he was not considered to the post of Assistant Secretary, since the Cashier post is the feeder category for the post of Assistant Secretary.

5. A perusal of the counter filed by the first respondent revealed that the second respondent society had approved cadre strength as follows:-



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<i>S.No</i>	<i>Category</i>	<i>Designation</i>	<i>Approved Cadre Strength</i>
1.	I	Secretary	1
2.	II	Assistant Secretary/Manager	1
3.	III	Accountant/Cashier/Senior Clerk	1
4.	IV	Clerk/Jewel Appraiser	2
5.	V	Salesman/Attender	1
6.	VI	Peon/Watchman	1

6. The third respondent was working till 1994. He was promoted as a Senior Clerk on 11.01.1994 and thereafter, he was promoted as an Accountant on 30.07.1999. Therefore, the third respondent is only an eligible person to be promoted as Assistant Secretary. However, the first respondent without following the rules and guidelines and the circular issued by the Registrar, the petitioner was promoted to the post of Assistant Secretary on 07.05.2013.

7. The learned counsel for the third respondent submitted that he was appointed as a Cashier by the second respondent, as per the resolution dated 27.09.1989. From the date of his appointment, he was working as only Cashier and he was not promoted to the post of Senior



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Clerk and to the post of Accountant. The feeder category to the post of Assistant Secretary is only Cashier/Accountant/Senior Clerk. All the three categories are same designation and as such the third respondent was rightly ordered to be promoted as Assistant Secretary. Whereas, though the petitioner was appointed prior to the third respondent, he was appointed only as a Clerk. After his promotion to the post of Senior Clerk and Accountant, he is eligible to be promoted as Assistant Secretary. Therefore, the order of promotion to the post of Assistant Secretary was rightly set aside by the first respondent.

8. A perusal of the resolution dated 27.09.1989, the third respondent was appointed as Clerk/Cashier. The subject shows that the agenda was placed to fill up the post of Cashier. The post of Clerk was erased and filled the post of Cashier in the subject column. In the resolution column also the post of Clerk was erased and filled up with the post of Clerk, Cashier. Admittedly, the second respondent requested the Sub-Employment Office, Mettur to sponsor the names from the Register to the post of Clerk. Accordingly, the third respondent's name was only sponsored by the Sub-Employment Office, Mettur by its communication



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dated 16.09.1989. Thereafter, the third respondent was served with the letter dated 20.09.1989 for the interview to be held on 23.09.1989. Since the third respondent had only participated in the interview, he was selected and appointed as a Clerk of the second respondent society.

9. It is also revealed from the counter filed by the first respondent, the third respondent was working till 1994 and thereafter on 11.01.1994, he was promoted to the post of Senior Clerk. Thereafter, he was promoted to the post of Accountant on 30.07.1999. Whereas, as per the cadre strength of the second respondent society, there is only one post of Secretary, one post of Assistant Secretary/Manager, one post of Accountant/Cashier/Senior Clerk and two posts of Clerk/Jewel Appraiser. Therefore, if the third respondent was appointed as Cashier as per the resolution, he did not require any further promotion to the post of Senior Clerk or Accountant, since other designations are in same cadre namely, Accountant/Cashier/Senior Clerk.

10. Therefore, the third respondent was originally appointed as Clerk and thereafter he was promoted to the post of Senior Clerk and to



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the post of Accountant. It is also seen that the third respondent was appointed temporarily by the second respondent society for the post of Clerk after the appointment of the petitioner herein. Thereafter, the second respondent requested the Sub-Employment Office, Mettur to sponsor the third respondent's name for the post of Clerk. On the specific request made by the second respondent, the Sub-Employment Office, Mettur sponsored the name of the third respondent alone to the post of Clerk. Since the Sub-Employment Office, Mettur sponsored the name of the third respondent alone, the third respondent was selected to the post of Clerk. Since the third respondent was working for long years, he manipulated the records as if the resolution was passed to select the third respondent for the post of Cashier and challenged the order of promotion of the petitioner as Assistant Secretary, on the ground that the third respondent was originally appointed as Cashier and he is the eligible person to be appointed as Assistant Secretary. Without verifying the records, the first respondent mechanically cancelled the order of promotion of the petitioner and directed the second respondent to appoint the third respondent to the post of Assistant Secretary.



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11. Therefore, the order passed by the first respondent cannot be sustained and is liable to be quashed. Accordingly, the order passed by the first respondent in his proceedings Na.Ka.No.5895/2014 Sa.Pa., dated 14.08.2015 is hereby quashed. This writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

12. The petitioner is permitted to continue as an Assistant Secretary from the date of his promotion with effect from 01.05.2013, as per the resolution dated 07.05.2013 with all monetary benefits. The first respondent is directed to take appropriate disciplinary action as against the then President of the second respondent society and the third respondent for manipulating the records.

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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

1. The Revisional Authority/Joint Registrar of
Cooperative Societies,
Salem Region,
Salem-637 001.
2. The President,
No.S.479, Devannagoundanoor
Primary Agricultural Co-operative Credit
Society Ltd.,
Devannagoundanoor-637 301,
Sankari Taluk,
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