



W.A.No.630 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.A.No.630 of 2020 and C.M.P.No.6869 of 2020

T.Pandian

.... Appellant

-Vs-

1.The Secretary to Government
Co-operative Department,
Office of the Chief Secretariat
Government of Puducherry
Puducherry.

2.The Deputy Registrar
The Registrar of Co-operative Societies
V.V.P.Nagar, Thatanchavady
Puducherry-605 009.

3.The President
No.P.133, Poraiyur Primary Agriculture
Co-operative Society Ltd., Poraiyur
Puducherry.

4. G.Baskaran

... Respondents

Prayer : Writ Appeals under Clause 15 of the Letters Patent against the order in
W.P.No.30538 of 2019 dated 25.10.2019.

For Appellants : Mr.K.S.Elangovan

For Respondents : Mrs.Sharada Vivek
Additional Government Pleader (Pondicherry)
-for R1 to R3
No appearance - for R4

J U D G M E N T



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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

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This appeal has been directed against the order passed by the writ Court dated 25.10.2019 in W.P.No.30538 of 2019.

2. The appellant was working as Senior Clerk in the third respondent Society. The hierarchy of the posts were, Tractor Cleaner, Tractor Driver, Junior Clerk, Senior Clerk and ultimately Manager Grade-III. The appellant was already working as Senior Clerk and the next promoted post is only Manager Grade-III. In the said post already the fourth respondent was working and due to some disciplinary action, a punishment of reversion has been inflicted against him. Therefore, he was reverted from the post of Manager Grade-III. Since the said post had become vacant temporarily, the appellant herein has been promoted to be in-charge of Manager Grade-III post from 07.03.2008 and this position continued till 16.07.2016 for more than eight years.

3. Therefore, at that juncture the appellant gave a representation dated 22.07.2019 to the first respondent to consider his candidature for the purpose of regular promotion to the post Manager Grade-III in the third respondent Society. Since the said representation has not been considered, he had approached the writ Court for a Mandamus to consider his representation.

4. The said writ petition was rejected by the learned Judge through the



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impugned order dated 25.10.2019, wherein the learned Judge has stated that, if at all he seeks a promotion if he is otherwise eligible, that can be considered.

However, since he wants the post to be given to him, which the fourth respondent was originally holding and subsequently since has been reverted for some time, he may be given the same post and since the fourth respondent was senior, the petitioner / appellant cannot prevent the fourth respondent to become Manager Grade-III post, for which he was otherwise eligible. Therefore, on that ground, the learned Judge has rejected the plea to consider the representation as against which the present appeal has been filed.

5. Heard the learned counsel for the appellant and the learned Additional Government Pleader appearing for the respondents 1 to 3. Despite notice having been served on the fourth respondent, he did not chose to appear.

6. Learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that, since the post of Manager Grade-III was held by the fourth respondent and merely because he was reverted for some time in view of undergoing the punishment awarded against him and in that intervening period temporarily since the appellant has been posted, he cannot claim as a matter of right that he should be considered for regular promotion to the post of Manager Grade-III. Therefore, on that ground only the learned Judge rejected the writ petition filed by the appellant and therefore the impugned order needs no



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interference, he contended.

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7. However, learned counsel for the appellant submits that, though the argument of the respondents that the post is meant for the fourth respondent as he is senior, after he completes the punishment period, he may be once again promoted to the post of Manager Grade-III, where he has been reverted because of the punishment is concerned, however subsequently the fourth respondent has been sent out on compulsory retirement. Therefore, he is no more an employee of the Society and the post has become vacant. Therefore, there is no impediment for the respondents to consider the candidature of the appellant for the said post, he contended.

8. In view of the said development, where the fourth respondent himself has been sent out by the third respondent by way of compulsory retirement, the post of Manager Grade-III since has become vacant and the next eligible person is only the petitioner / appellant, we also feel that there could be no further impediment for the respondents, especially the first respondent in respect of the third respondent society to consider the candidature of the petitioner / appellant to be promoted to the post of Manager Grade-III.

9. In that view of the matter, we are inclined to dispose of the present appeal



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with a direction to the respondents 1 to 3 to consider the candidature of the petitioner / appellant for promotion to the post of Manager Grade-III at the third respondent Society provided if he is otherwise fulfills all other conditions and bye-laws of the Society and accordingly necessary orders shall be passed on his representation dated 22.07.2019 by taking into account of the latest development which we have discussed herein above, within a period of two months from the date of receipt of a copy of this order.

10. The writ appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (G.A.M.,J.)
22.12.2023

Index : Yes
Internet : Yes
KST

To

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Co-operative Department, Office of the Chief Secretariat
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and
G.ARUL MURUGAN, J.

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