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W.P.Nos.8648 & 8654 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.8648 & 8654 of 2021
and W.M.P.Nos.9195 & 9198 of 2021 and
1230 & 1232 of 2022

1.V.Sreenivas ... Petitioner in W.P.No.8648 of 2021
2.B.V.Rambabu ... Petitioner in W.P.No.8654 of 2021
Vs.

1.The Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
Fort St.George, Chennai 600 009.

2.The Joint Registrar of Co-operative Societies,
Krishnagiri Region, Co-operative Colony,
Krishnagiri, Krishnagiri District.

3.The President,
D.K.80, Berigai Primary Agricultural
Co-operative Credit Society, Shoolagiri Road,
Berigai - 635 105, Shoolagiri Taluk,
Krishnagiri District.

... Respondents in both W.Ps

Prayer in both W.Ps: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to regularise the petitioners' service as Salesman and clerk in the third respondent Society by giving retrospective effect from the date of appointment and consequently permit the petitioners to join duty as



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Salesman and clerk in the 3rd respondent Society.

In both W.Ps

For Petitioners : Ms.R.Hemalatha

For Respondents : Mr.T.Chezhiyan,
Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed seeking to issue a Writ of Mandamus, to direct the respondents to regularise the petitioners' service as Salesman and clerk in the third respondent Society by giving retrospective effect from the date of appointment and consequently permit the petitioners to join duty as Salesman and clerk in the 3rd respondent Society.

2. Heard Ms.R.Hemalatha, learned counsel for the petitioners and Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents.

3. The petitioners claim regularisation in pursuant to the G.O.Ms.No.86 dated 12.03.2001. According to the petitioners, they have been appointed as Salesman and Clerk on 07.02.2000 and 01.09.2009 on daily wages. The petitioners claim the benefit under G.O.Ms.No.86 dated



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12.03.2001.

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4. According to the learned Additional Government Pleader for the respondents, G.O.Ms.No.86 dated 12.03.2001 has been withdrawn vide G.O.Ms.No.301, Co-operative Food and Consumer Protection Department dated 17.10.2007. Hence it is claimed by the learned Additional Government Pleader that those employees who have been appointed irregularly cannot claim the benefit of regularisation. The withdrawal of the Government Order is consequent to the Supreme Court's judgment held in C.A.No.1413 of 2013 filed against the order of the High Court in L.Justin's case. In L.Justin's case, G.O.Ms.No.86 was challenged and some directions were given and the same was challenged by the Government by way of filing C.A.No.1413 of 2013. In the said case, the Hon'ble Supreme Court has passed an order on 28.07.2004 by referring to Umarani's case and held that those persons who have come through back door should go through the back door and their regularisation is not permissible.

5. The learned counsel for the petitioners attracted the attention of



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this Court to the subsequent order passed in W.P.Nos.21440 of 2015 etc., batch dated 19.02.2021, in which, the following direction has been given:

"37. In view of the above discussion, all the Writ Petitions are disposed of with the following directions:

a. All those petitioners/ respondent Employee, as the case may be who have at the time of their appointment, fulfilled their educational qualification, who have been appointed in a sanctioned post within the cadre strength, and are in regular scale of pay, are declared to have satisfied the substantial / mandatory qualification prescribed under Rule 149(1) of the Rules;

b. The appointments not being sponsored by the employment exchange, as prescribed under Rule 149(2) of the Rules, will only make the appointments irregular and not illegal;

c. All those petitioners / respondent Employee, as the case may be who have fulfilled the criteria stipulated in Clause (a), shall be regularised by the respondents by issuing appropriate proceedings within a period of 8 weeks from the date of receipt of a copy of this order by taking the cut-off date as 12.03.2001;

d. The regularisation of service of the



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petitioners / respondent Employee as the case may be will not entail them with any additional monetary benefits except the consequential benefits which flows from such regularisation; and

e. The benefit of regularisation that is extended to the eligible petitioners / respondent Employee, as the case may be shall also be extended to all those employees who are similarly placed even though they have not knocked the doors of this Court."

6. Following the above direction, if any order has been passed to any other persons who are fulfilling the conditions as stated in the above direction, the same is applicable to the petitioners as well. Supposing the Government has taken the said order on Appeal, that will also bind the petitioners. Hence, the representation given by the petitioners shall be considered by the respondents taking into consideration of the orders passed in W.P.Nos.21440 of 2015 etc., batch dated 19.02.2021.

7. With the above observations, these Writ Petitions are disposed



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and the respondents are directed to consider the representation given by the petitioners in the light of the order passed by this Court in W.P.Nos.21440 of 2015 etc., batch dated 19.02.2021 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes

Internet : Yes/No

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To
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R.N.MANJULA, J.

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