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W.P.No.8329 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2023

CORAM:

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

W.P.No.8329 of 2015

P.Moorthy

... Petitioner

Vs.

1.The Deputy Registrar of Coop. Societies,
Tindivanam Circle, Tindivanam,
Villupuram District

2.The President,
CL.SPL.106, Marakkanam Primary
Agricultural Coop. Credit Society,
Marakkanam Post, Tindivanam Taluk,
Villupuram District

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to permit the second respondent to reinstate the petitioner into service in the second respondent society as Salesman by implementing the order passed by the Labour Court, Cuddalore in his proceedings No.37 of 2014 dated 20.02.2014, same was corrected as 28.02.2014.

For Petitioner : Mr.A.K.R.Ravi
for Mr.M.Uyiroli Kannan
For Respondents : Ms.Akila Rajendran
Government Advocate



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ORDER

This writ petition has been filed for direction directing the first respondent to permit the second respondent to reinstate the petitioner into service as Salesman as per the order passed by the Labour Court, Cuddalore dated 28.02.2014.

2. Heard, the learned counsel appearing on either side.

3. The petitioner was appointed as Salesman in the second respondent Society on 07.01.1998. However, he was terminated from service without any notice and without following any procedure of law. Subsequently, Special Officer was appointed in the place of Board of Directors under Section 89 of Tamilnadu Cooperative Societies Act and conducted enquiry. In the enquiry, the Special Officer found that the termination of this petitioner was bad and directed to reinstate him into service. Accordingly, he was reinstated into service on 02.02.2001. However, again he was terminated from service on 01.03.2001 on the ground that the second respondent society financial stability was not



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sound. Therefore, the petitioner approached the Labour Officer, Cuddalore and raised Industrial Dispute under Section 2(A) of Industrial Disputes Act against his termination. During the conciliation proceedings, the second respondent accepted and agreed to reinstate the petitioner into service without any backwages with continuity of service since out of 12 posts, there are 6 vacancies available in the second respondent Society. Accordingly, the Labour Officer by an order dated 28.02.2014 directed the respondents to reinstate the petitioner into service with continuity of service and without backwages. So far, the petitioner was not reinstated into service.

4. On perusal of counter filed by the first respondent, revealed that if the appointment itself is illegal, then the permanency Act of 1981 or Industrial Disputes Act, 1947 cannot be invoked at all. The appointments of the staff made to the Cooperative Societies by the elected Boards or Officers in charge in violation of cadre strength or the prescriptions of the educational qualifications cannot stand and held to be null and void. However, so far the petitioner has not been reinstated into



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service as per the order passed by the Labour Officer. In fact, the learned counsel for the petitioner is also agreed to reinstate the petitioner into service without any backwages and with continuity of service.

5. Considering the above, the respondents are directed to reinstate the petitioner into service as ordered by the Labour Officer, Cuddalore by its proceedings dated 28.02.2014 forthwith without any backwages and with continuity of service.

6. With the above direction, this writ petition is allowed. There shall be no order as to costs.

25.07.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

- 1.The Deputy Registrar of Coop. Societies,
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- 3.The Government Advocaote,
Madras High Court



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G.K.ILANTHIRAIYAN, J.

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