



WEB COPY



W.A.No.2593 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.09.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.2593 of 2023

AND

C.M.P.No.21905 of 2023

1.The Joint Registrar of Co-operative Societies
/Revisional Authority
Nagapattinam Region (formerly)
Presently Mayiladuthurai
No.303, 3rd Floor, Collector Office Building
Nagapattinam

2.The Managing Director
The Mayuram Co-operative Urban Bank Ltd.
158-Mahadhana Street
Mayiladuthurai District 609 001

.. Appellants

Vs.

1.N.Sivasubramaniyan

2.The Registrar of Co-operative Societies
170-N.V.N.Maaligai
EVR High Road
Kilpauk
Chennai 600 010



W.A.No.2593 of 2023

3.The Deputy Registrar of Co-operative Societies
Mayiladuthurai Circle, Deen Plaza
Mayiladuthurai District 609 001

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 07.06.2023 passed in W.P.No.26322 of 2017.

For Appellants : Mr.Silambanan
Additional Advocate General
For 1st Respondent : Mr.C.Prakasam

JUDGMENT

(Judgment of the court was delivered by R. MAHADEVAN, J.)

This Writ Appeal arises from the order dated 07.06.2023 passed by the learned Judge in W.P.No.26322 of 2017.

2.It is the case of the first respondent / writ petitioner that he was working as a Jewel Appraiser/Assistant in the 2nd appellant bank from 04.10.1995 and getting a consolidated pay of Rs.8,400/- per month, till 31.07.2008. The second respondent issued a Circular dated 21.08.2008 for fixation of time scale for consolidated pay scale employees and accordingly, the pay of the first respondent was fixed at Rs.8,415/- per month by the 2nd appellant bank. While so, the 3rd respondent, without any notice or opportunity to the first respondent, revised his pay scale with retrospective effect from



W.A.No.2593 of 2023

01.08.2008 and reduced his salary to Rs.3,913/- per month. Questioning this act of the 3rd respondent, the first respondent / writ petitioner preferred a revision u/s.153 of the Tamil Nadu Co-operative Societies Act, before the first appellant and the same was rejected on 10.04.2017. On the basis of the rejection order, the 2nd appellant passed an order on 21.09.2017. Challenging these orders, the first respondent filed W.P.No.26322 of 2017, which was allowed by the learned Judge, by setting aside the order dated 10.04.2017 and the consequential order dated 21.09.2017 passed by the appellant authorities. Aggrieved by the same, the appellants are before this Court with the present appeal.

3.The learned Additional Advocate General appearing for the appellants has submitted that the learned Judge has failed to consider the Circular of the second respondent in proper perspective. The first respondent is an irregular employee and his initial appointment was made on daily wage basis. Only as per the clause stated in the Circular that the pay has to be fixed in the minimum of time scale of pay applicable to the category of post to which such irregular employee was appointed initially, the first respondent's salary was re-fixed. Therefore, it is not correct on the part of the learned Judge to state that the order of the first appellant is in excess of authority and without jurisdiction, as



W.A.No.2593 of 2023

according to G.O.(2D)No.108 Cooperation, Food and Consumer Protection Department dated 31.08.2005, in respect of Primary and Central Societies, all the powers of Registrar under the Act have been delegated to the Joint Registrars. It is also not correct to state that no opportunity was granted to the first respondent before passing orders, since he was given sufficient opportunity in Section 153 Proceedings and he was heard orally and his written arguments have also been considered, on merits. However, the learned Additional Advocate General appearing for the appellants has submitted that the matter may be remitted back to the appellants for considering the case of the first respondent afresh, after affording an opportunity to the first respondent. He has also given an undertaking that the salary already received by the first respondent will not be recovered.

4.The learned counsel for the first respondent / writ petitioner has submitted that the learned Judge has taken note of all the points stated by the first respondent and has passed the impugned order and hence, the same does not require any interference in the hands of this Court.

5.Heard both sides and perused the documents enclosed in the typed set of papers.

6.It is seen from the order impugned herein that the learned Judge set



W.A.No.2593 of 2023

aside the orders passed by the appellant authorities, mainly on the ground that the first respondent has not been afforded reasonable or fair opportunity to him and the first appellant has no authority to pass such order. While so, the learned Additional Advocate General appearing for the appellants, during the course of argument, has agreed that the case of the first respondent will be considered afresh, after affording a reasonable opportunity to him. In the circumstances, this Court deems it fit to modify the impugned order passed by the learned Judge to the effect that while setting aside the orders impugned in the writ petition, the matter is remitted back to the appellants for considering the same afresh on merits and pass appropriate orders in accordance with law, after affording an opportunity of being heard to the first respondent. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this judgment.

7.The writ appeal is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
25.09.2023

Internet : Yes
Neutral Citation : Yes/No
gya

R. MAHADEVAN, J.
AND



WEB COPY



W.A.No.2593 of 2023

MOHAMMED SHAFFIQ. J.

gya

To

1.The Registrar of Co-operative Societies

170-N.V.N.Maaligai

EVR High Road

Kilpauk

Chennai 600 010

2.The Deputy Registrar of Co-operative Societies

Mayiladuthurai Circle, Deen Plaza

Mayiladuthurai District 609 001

W.A.No.2593 of 2023

25.09.2023