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W.P.No.25216 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.25216 of 2021

and

W.M.P.No.26593 of 2021

S.Dhanapalan, M/58
S/o.Saivaraj
No.19/24, Sankaran Pillaiyar Koil Street
Velipalayam Post
Nagapattinam District

... Petitioner

/Vs/

1.The Joint Registrar of Cooperative Societies
Nagapattinam Region
Collectorate Complex (Third Floor)
Nagapattinam
Nagapattinam District

2.The Deputy Registrar of Cooperative Societies
Mayiladuthurai Circle, Mayiladuthurai
Mayiladuthurai District

3.The Managing Director
O.S.43, Mayiladuthurai Cooperative Primary
Agriculture and Rural Development Bank Ltd.,
No.114, Magadhana Street
Mayiladuthurai Post and Taluk 609 001
Mayiladuthurai District

4.The Secretary to Government,
Cooperation, Food and Consumer Protection Department
Fort St. George, Chennai 600 09



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(R4 impleaded vide order dated 21.09.2023

made in WMP.No.23398 of 2023)

Respondents

...

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the second Respondent in his proceedings Na.Ka.2954/2013/Sa.Pa, dated 28.09.2021 and quash the same and consequently directing the respondents to fix the revised pay scale by taking note of the Petitioner Service as rendered as supervisor in L.D.Bank and he was suffered by illegal order passed by the 1st Respondent.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.P.Sanjai Gandhi (for R1, R2 & R4)
Government Advocate

Mr.T.C.Harinath (for R3)

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the second Respondent in his proceedings Na.Ka.2954/2013/Sa.Pa, dated 28.09.2021 and quash the same and consequently directing the respondents to fix the revised pay scale by taking note of the Petitioner Service rendered as supervisor in L.D.Bank.



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2.The Petitioner is aggrieved due to his transfer to Thirukadaiyur Agricultural Cooperative Credit Society, by considering that the Respondent's society has got surplus staff members. According to the Petitioner as per the circular of the Registrar of Cooperative Societies dated 02.02.2019, whenever a surplus staff is deputed to some other cooperative societies that person should be the junior most in the society, where the surplus staff is found out.

3.Heard Mr.C.Prakasam, learned counsel for the Petitioner and Mr.P.Sanjai Gandhi, learned Government Advocate for Respondents 1, 2 & 4 and Mr.T.C.Harinath, learned counsel for the third Respondent.

4.Mr.P.Sanjai Gandhi, learned Government Advocate for Respondents 1, 2 & 4 submitted that in obedience of the order of the first Respondent, the Petitioner has not chosen to join in the new cooperative society and remained absent for two years. Later, disciplinary proceedings have been initiated against the Petitioner and he has been removed from service. The Petitioner filed a review against the order of removal from service. The Joint Registrar/first Respondent set aside the order of removal of service and the Petitioner was reinstated in the Co-operative Society, for which he was transferred. Even thereafter, the Petitioner did not join the post. The Petitioner challenged the above order by way of preferring W.P.No.28222 of 2012. In the said Writ



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Petition on 25.03.2021, an order has been passed to appoint the Petitioner at Sirkali Asiriyarkal Kutturavu Sikanam and Kadan Sangam. In accordance with the orders of this Court, the Petitioner joined at Sirkali on 28.06.2021.

5.Mr.C.Prakasam, learned counsel for the Petitioner submitted that the Petitioner made a representation to the first Respondent seeking backwages and that has been rejected by the impugned order. This Writ Petition has been filed challenging the rejection order and to direct the Respondents to fix the pay scale of the Petitioner in the cadre of Supervisor in L.D.Bank with all the consequential attendant benefits.

6.The Petitioner joined duty by virtue of an order dated 25.03.2021 made in W.P.No.28222 of 2012. The relevant portion is extracted as under:

“5.I have considered the said submissions made by the learned counsel appearing for both sides and by taking note of the same, without going into the issue raised in these writ petitions on merits, this Court is inclined to dispose of these writ petitions with the following orders.

(i) That the respondents shall appoint the petitioner in W.P.No.28222 of 2012 and W.P.No.5477 of 2010 viz., S.Dhanapalan as Clerk at O.S.52 Sirkali Asiriyarkal Kutturavu Sikkanam and Kadan Sangam Limited forthwith.

(ii) In this regard, the Joint Registrar of Co-operative Societies,



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Nagapattinam District shall give an administrative sanction immediately to the said Society i.e., O.S.52 Sirkali Asiriyarkal Kutturavu Sikkanam and Kadan Sangam Limited and on receipt of such sanction, the necessary appointment shall be made by the Society to and in favour of the petitioner S.Dhanapalan.

(iii) Insofar as the other writ petitioner viz., V.Veerasekaran, who is the writ petitioner in W.P.No.28223 of 2012 and W.P.No.5502 of 2010, is concerned, he shall be accommodated as and when vacancy arises, in any one of the Society within the Nagapattinam District, as soon as such vacancy arise by following the aforesaid procedure i.e. on giving an administrative sanction by second respondent, the concerned Society shall make appointment of the other petitioner also in such vacancy, which would arise in near future.

(iv) The needful, as indicated above, shall immediately be complied with, within an outer limit of four weeks.”

The first Respondent has observed in his impugned order that in the order passed in W.P.No.28222 of 2012, there is nothing stated about the backwages or cancellation of earlier transfer order that the Petitioner should be reinstated in the same cadre in which he was deputed to the other cooperative society. Since the Petitioner did not get any backwages and no observation has been made in the earlier Writ Petition viz., W.P.No.28222 of 2012, the Respondent has rightly rejected the representation of the Petitioner and passed the impugned order. In



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fact, in the earlier order passed in W.P.No.28222 of 2012, the word appointment is employed and the order to be issued for the Petitioner to join in Sirkali Asiriyarkal Kutturavu Sikanam and Kadan Sangam can be considered only as an appointment order and not an order of reinstatement. Hence there is no question of considering backwages.

7. With the above observation, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

17.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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