



W.A(MD)No.172 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.172 of 2023
and
W.M.P(MD)No.2220 of 2023**

K.Neelakandan

... Appellant/Writ Petitioner

VS.

1.The Chairman / Joint Registrar,
Kanyakumari District,
Recruitment Bureau for Co-operative Societies,
Block No.14, 2nd Floor,
Collectorate Annex Building Nagercoil,
Kanyakumari District.

2.The Secretary,
No.Y-213, Chiramadam Primary Agricultural
Co-operative Bank Limited,
Azhagiapandipuram Post,
Kanyakumari District.

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 21.12.2022 passed in W.P(MD)No.28590 of 2022, on the file of this Court.

For Appellant

: Mr.AL.Kannan



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For Respondents

: Mr.A.Baskaran

Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by D.KRISHNAKUMAR, J.)

Challenging the order passed by the learned Single Judge in W.P(MD)No.28590 of 2022, dated 21.12.2022, the appellant/writ petitioner has filed the instant Writ Appeal.

2.The said W.P(MD)No.28590 of 2022 has been filed by the appellant/writ petitioner, challenging the impugned notification, dated 13.10.2022, issued by the first respondent for filling up the post of salesman.

3.According to the appellant/writ petitioner, he was appointed as Helper in Chiramadam Fair Price shop Depot in a time scale of pay of Rs.150/- in the year 1980, through Employment Exchange and his service was regularized. Pursuant to the resolution passed by the second respondent, dated 24.01.1996, the appellant/writ petitioner was promoted from the post of Helper to the post of Salesman vide proceedings, dated 08.04.1996. Whiles, without assigning any reason and without conducting



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any enquiry, termination order has been passed as against the appellant/writ petitioner. Hence, the appellant/writ petitioner raised an Industrial Dispute and an enquiry was conducted by the Assistant Commissioner of Labour, Nagercoil on 25.02.2009. Pending enquiry, the second respondent Society has voluntarily come forward to file an undertaking before the Assistant Commissioner of Labour, Nagercoil, in its letter, dated 10.11.2010, stating that since the Society was running on loss and there was no vacancy as on date and if any vacancy arose in future, they would accommodate the appellant/writ petitioner in the said post. Contrary to the said undertaking, the present notification has been issued in order to fill up the posts in the second respondent Society. Challenging the same, the appellant/writ petitioner has filed the Writ Petition.

4.The learned Single Judge, vide order dated 21.12.2022, dismissed the Writ Petition. Aggrieved over the same, the appellant/writ petitioner has filed the present Writ Appeal.

5.The learned counsel appearing for the appellant/writ petitioner submitted that when the respondent Society has made such an undertaking affidavit before the Assistant Commissioner of Labour, Nagercoil, the



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appellant/writ petitioner is entitled for the appointment in the said vacancy post. Without considering the aforesaid fact, the Writ Court has wrongly rejected the contention of the learned counsel appearing for the appellant/writ petitioner.

6.The learned counsel appearing for the respondents submitted that due to change of policy, the recruitment agency has taken steps to fill up the vacancies by direct recruitment. Therefore, the appellant/writ petitioner is not entitled for the said post.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.On a perusal of the materials available on record, it is seen that the prayer sought for by the appellant/writ petitioner was challenging the impugned notification issued by the first respondent, dated 13.10.2022. If the second respondent has not complied with the undertaking before the Assistant Commissioner of Labour, Nagercoil, the appellant/writ petitioner has to seek necessary relief for implementing the said undertaking given by the second respondent Society. Without seeking such remedy before the



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appropriate forum based on the undertaking given by the second respondent Society, the appellant/writ petitioner has challenged the said notification, dated 13.10.2022 issued by the first respondent. Therefore, the Writ Court has rightly rejected the claim of the appellant/writ petitioner and there is no error or irregularity in the order passed by the learned Single Judge.

9. Accordingly, we are not inclined to entertain the Writ Appeal and the same is dismissed. However, it is open to the appellant/writ petitioner to seek for necessary relief, based on the undertaking given by the second respondent Society before the appropriate forum, in the manner known to law, if he is so advised. No costs.

[D.K.K.,J.] & [L.V.G.,J.]
27.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

- 1.The Chairman / Joint Registrar,
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D.KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

**ORDER MADE IN
W.A(MD)No.172 of 2023**

27.02.2023

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