



W.P.(MD)No.4966 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4966 of 2023

and

W.M.P(MD)Nos.4628 & 4629 of 2023

Senthur Pandian

... Petitioner

Vs

1.The Joint Registrar of Co-operative Societies,
Common Cadre Authority,
Ramnad Region,
Ramanathapuram District.

2.The Deputy Registrar of Co-operative Societies,
Oottappalam,
Paramakudi,
Ramanathapuram District.

3.The President,
Sevalpatti Primary Agricultural Co-operative
Credit Society – Q1236,
Kadaladi Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 08.02.2023 and include the name of



W.P.(MD)No.4966 of 2023

the petitioner in the proposed promotion list for the post of Secretary in third respondent society and thereby issue revised promotion list.

For Petitioner : Mrs.Porkodi Karnan
for M/s. Porex Legal Solutions

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
for R.1 & R.2

ORDER

Heard the learned counsel on either side.

2. The petitioner is presently working as Clerk in the third respondent Society. The post of Secretary has fallen vacant in the said society. The petitioner is an aspirant for the said post. That the post of Clerk is a feeder grade for the post of Secretary is not in dispute. The post of Secretary falls in the common cadre. When the seniority list for the posts of Secretary in various societies was prepared, the petitioner's name was mentioned therein. Copy of the tentative list has been enclosed in Page No.18 of the typed set of papers. When the revised seniority list was prepared, the petitioner's name was omitted. The post of Secretary in respect of the third respondent society has also not been included. That led to filing of this writ petition.



W.P.(MD)No.4966 of 2023

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to direct the respondents to include the name of the petitioner in the proposed promotion list for the post of Secretary in the third respondent society.

4. The respondents have filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents.

5. The primary objection of the respondents is that when the petitioner was appointed as salesman in the society in the year 1999, it was not a case of regular appointment. It is stated that the elected board of the third respondent society appointed the petitioner without calling for the list of eligible candidates from employment exchange as envisaged by the statutory rules. The petitioner had not been regularized in his post till date. It is true that the Registrar of Co-operative Societies has issued circular as early as on 09.09.2021 for regularising such appointees. Till the said process is concluded by insertion of the transitory special bylaws, the case of the petitioner cannot be considered. It is for this reason the respondents seek dismissal of the writ petition.



W.P.(MD)No.4966 of 2023

6. I carefully considered the rival contentions and went through the materials on record.

7. The stand of the respondents is that the petitioner was irregularly appointed might as well be correct. But that is not the moot question. The fact remains that the petitioner was appointed as early as on 01.05.1999. Almost a quarter of a century has gone by. Though the petitioner was originally only as salesman he was subsequently promoted as Clerk on 14.11.2012. The petitioner has functioned in the promoted post for more than 10 years. The petitioner's name was originally included in the tentative panel prepared by the authorities. In paragraph No.9 of the counter itself it has been fairly stated that there is a proposal to regularize all the irregularly appointed persons. When such policy decision has been taken and when the petitioner has already been given one promotion, it may not be reasonable to hold the manner of the petitioner's initial entry into service against him.

8. In this view of the matter, I direct the respondents to consider the name of the petitioner for the post of Secretary in the third respondent society. I am certain that the petitioner will be promoted to the said post if there is no other impediment.



W.P.(MD)No.4966 of 2023

9. This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.04.2023

Index : Yes / No
Internet : Yes/ No
NCC : Yes / No
MGA

To

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- 2.The Deputy Registrar of Co-operative Societies,
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W.P.(MD)No.4966 of 2023

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