



WEB COPY

W.A.(MD) No.1012 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1012 of 2021

and

C.M.P.(MD) Nos.4581 of 2021 & 6803 of 2023

The Special Officer
9061, Thoothukudi District Consumer
Co-operative Whole and Sale Stores
134, Great Cotton Road
Thoothukudi-628 001

... Appellant

-vs-

1.A.Kanagaraj

2.A.Amirtharaj

3.V.Anburaj

4.V.Rethnaraj

5.V.Thangamani

6.The Secretary
Department of Co-operation, Food
and Consumer Protection
Fort St.George
Chennai-9



W.A.(MD) No.1012 of 2021

WEB COPY

7.The District Collector
Office of Collector
Korampallam
Thoothukudi

8.The Chairman of District
Recruitment Bureau
The President
Thoothukudi Central Co-operative Bank
136, Bolpettai
Thoothukudi-2

9.The Vice-Chairman of District
Recruitment Bureau
The Joint Registrar of Co-operative Societies
Thoothukudi Region
First floor
39, P.D.R.Naidu Street
Thoothukudi-628 002

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 03.06.2020, passed in W.P.(MD) No.16471 of 2012, on the file of this Court.

For Appellant : Mr.S.Kumar

For Respondents : Mr.S.Muthumalai Raja for R1, R3 & R5
Mr.S.P.Maharajan
Special Government Pleader for R6 to R9



WEB COPY

W.A.(MD) No.1012 of 2021

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

The recruitment notification published in the newspaper, dated 02.11.2012 for selection and appointment to the post of Salesman and Packers in Fair Price Shops functioning under the Cooperative Society was sought to be quashed in the writ petition.

2. As per the recruitment notification dated 02.11.2012, the educational qualification fixed for selection and appointment to the post of Salesman is pass in Higher Secondary Course (+2) and for Packers pass in SSLC.

3. Learned counsel appearing for the respondent – writ petitioners relied on a circular issued by the Registrar of Cooperative Societies in Circular No.23/09, dated 06.07.2009 and contended that even for the post of Salesman pass in SSLC would be sufficient and therefore, the respondent – writ petitioners are also eligible to participate in the process of direct recruitment to the post of Salesman in Fair Price Shop.



W.A.(MD) No.1012 of 2021

WEB COPY

4. The respondent – writ petitioners are already serving in a Fair Price Shop under the control of the fifth respondent. However, the said circular was issued on 06.07.2009 amending the qualification of tenth standard to higher secondary (HSC) for appointment to the post of Salesman through direct recruitment. If at all the respondent – writ petitioners are eligible for promotion to the post of Salesman from the post of Packer, the same is to be taken into consideration in the event of preparing a panel for promotion.

5. Learned Special Government Pleader appearing for the respondents 6 to 9 brought to our notice that the Special Rules are already amended and even for promotion, the qualification fixed is +2.

6. However, we are not inclined to go into the Rules relating to promotion, since the writ proceedings was initiated challenging the recruitment notification issued for direct recruitment to the post of Salesman and Packer. As far as the recruitment notification impugned in the writ petition is concerned, the respondent – writ petitioners are not qualified to participate in the process of selection and thus, the findings of the learned



W.A.(MD) No.1012 of 2021

WEB COPY

Single Judge that the Tamil Nadu State and Subordinate Service Rules are to be applied to the writ petitioners is erroneous.

7. Accordingly, the writ appeal is allowed and the order dated 03.06.2020, passed by the learned Single Judge in W.P.(MD) No.16471 of 2012, is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[V.L.N., J.]

27.11.2023

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

krk

To:

1. The Secretary,
Department of Co-operation, Food
and Consumer Protection,
Fort St. George,
Chennai-9.

2. The District Collector,
Office of Collector,
Korampallam,
Thoothukudi.



W.A.(MD) No.1012 of 2021

WEB COPY

- 3.The Chairman of District
Recruitment Bureau,
The President,
Thoothukudi Central Co-operative Bank,
136, Bolpettai,
Thoothukudi-2.
- 4.The Vice-Chairman of District
Recruitment Bureau,
The Joint Registrar of Co-operative Societies,
Thoothukudi Region,
First floor,
39, P.D.R.Naidu Street,
Thoothukudi-628 002.



WEB COPY



W.A.(MD) No.1012 of 2021

S.M.SUBRAMANIAM, J.
and
V.LAKSHMINARAYANAN, J.

krk

W.A.(MD) No.1012 of 2021
and
C.M.P.(MD) Nos.4581 of 2021 & 6803
of 2023

27.11.2023