



W.P.(MD).No.9155 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.9155 of 2019

and

W.M.P(MD)Nos.7130 & 7131 of 2019

D.P.S.Kamaraj

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Lalgudi Circle,
Lalgudi, Trichy District.

2.The President,
R1045, Venkatachalapuram,
Primary Agricultural Co-operative Credit Society,
Venkatachalapuram (Po),
Pullampadi – Via,
Lalgudi Taluk, Trichy District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent dated 19.07.2013 and consequently passed the impugned proceedings in Na.Ka.No. 1161/2017/Ve Se Sa dated 22.03.2019, quash the same and direct the 2nd respondent to pay the petitioner his monthly salary at the rate fixed by the 2nd



W.P.(MD).No.9155 of 2019

respondent society Dehors the approval or non approval of the 1st respondent.

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*(Prayer amended vide order, dated 02.01.2023 in
W.M.P(MD)No.23304 of 2022)*

For Petitioner : Mr.K.Sathiya Singh
For R1 : Mr.S.R.A.Ramachandran
Additional Government Pleader
For R2 : No Appearance

ORDER

This writ petition has been filed to quash the order, dated 22.03.2019 passed by the 1st respondent and to direct the 2nd respondent to pay monthly salary fixed by the 2nd respondent Society dehors the approval or non-approval of the 1st respondent.

2. Initially the petitioner was appointed as Secretary on 09.02.1987 and was terminated from service on 30.06.1999 on the charge that he had misguided the Board of Directors of the 2nd respondent Society. The petitioner has challenged the termination order dated 08.03.2000 in W.P.(MD)No.10507 of 2008 and has challenged the order dated 25.12.2010 in W.P.(MD) No.2975 of 2011. Through a common order, dated 19.03.2013, this Court allowed the



W.P.(MD).No.9155 of 2019

petitions and directed to reconsider the punishment of dismissal from service and to impose any other punishment other than dismissal. Based on the order of this Court, the 2nd respondent Society conducted a domestic enquiry and decided to treat his termination for a period from 30.06.1999 to 21.07.2013 as a punishment, directed to reinstate and further ordered that the petitioner is not entitled to any monetary benefits for the said period. Then, the petitioner joined duty in the 2nd respondent Society on 22.07.2013. Thereafter, the then President of the 2nd respondent Society has requested through a letter, dated 22.07.2013 to the Deputy Registrar to fix the petitioner's salary and also requested the Deputy Registrar to fix the salary on par with the newly appointed Secretary. As per the direction of the Deputy Registrar the petitioner was fixed lower salary. The contention of the petitioner is that the respondents ought to have fixed salary by taking into account the seniority and the service rendered from 09.02.1987. The petitioner filed written objection on 18.10.2013 to the 2nd respondent seeking to reconsider the order, dated 19.07.2013 and sought for continuity of service and payment of salary as continued in service without any break and refix the monthly salary afresh on a higher rate. Since they have not taken any action, the petitioner filed W.P.(MD)No.65 of 2014 and this Court directed the petitioner to withdraw the writ petition and to file revision petition before the Registrar of



W.P.(MD).No.9155 of 2019

Co-operative Societies under Section 153 of Tamil Nadu Co-operative Societies Act. Hence, the petitioner filed revision petition. By an order, dated 14.06.2016, the revision petition was dismissed. Thereafter, the petitioner submitted a representation, dated 25.01.2017 and undertook that he will give up the monetary benefit from 30.06.1999 to 22.07.2013, but he sought to grant continuity of service and to grant all notional increments to the salary, so that the petitioner would be getting higher salary in consonance with the seniority by treating the period from 30.06.1999 to 22.07.2013 as period in service. The petitioner has initially filed this writ petition challenging the impugned order, dated 22.03.2019. Pending writ petition, the petitioner filed W.M.P.(MD)No. 23304 of 2022 seeking to amend the prayer whereby the petitioner has also challenged the original order, dated 19.07.2013. The said Miscellaneous Petition is allowed while hearing this writ petition.

3. The contention of the petitioner is that the allegation against the petitioner is only that he has misguided the Board of Directors in the recruitment process. The petitioner failed to intimate the Board of Directors that recruitment should be through employment exchange.



W.P.(MD).No.9155 of 2019

WEB COPY

4. This Court is of the considered opinion that the punishment of dismissal from service is disproportionate and already this Court has also held by the common order, dated 19.03.2013 that the punishment of dismissal from service is on a higher side and directed the respondents to impose any other punishment other than dismissal. In such circumstances, the imposition of punishment by completely denying continuity of service and recruiting the petitioner as a fresh entrant again is disproportionate. Hence, the order impugned in the writ petition is quashed. This Court is of the considered opinion that the petitioner is entitled to continuity of service for the period from 30.06.1999 to 21.07.2013. Consequently, the petitioner is entitled to all increments and other service benefits except monetary benefits. The 2nd respondent shall implement this order within a period of eight (8) weeks from the date of receipt of the copy of the order.

5. With these directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.01.2023

Index : Yes / No
Internet : Yes/ No



W.P.(MD).No.9155 of 2019

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W.P.(MD).No.9155 of 2019

S.SRIMATHY, J.

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W.P.(MD).No.9155 of 2019



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W.P.(MD).No.9155 of 2019

02.01.2023