



W.P(MD)No.16174 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16174 of 2020

and

W.M.P(MD)Nos.13549, 13547 & 15084 of 2020

- 1.K.Pitchumani
- 2.S.Senthil Maharajan
- 3.ThirumalarJeevitha
- 4.N.Kannan
- 5.S.Ramesh
- 6.S.Maharajan
- 7.S.Renganathan
- 8.Thanga Rajeswari
- 9.R.Santhanakrishnan
- 10.G.Subramanian
- 11.V.Subramanian
- 12.T.Krishnakumar
- 13.G.Ramasamy
- 14.M.Murugan
- 15.M.Saravanakumar
- 16.S.Kanagaraj
- 17.M.Gurunathan
- 18.A.Murugesan
- 19.C.Senthilvel
- 20.P.Jeyaraj
- 21.A.Krishnamoorthi

... Petitioners

Vs



W.P(MD)No.16174 of 2020

The Joint Registrar / Managing Director,
Tuticorin District Central Cooperative Bank,
109/5D, Ettayapuram Road,
Polpettai,
Tuticorin – 628 002.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in Na.Ka. 0096/2020/valar dated 14.09.2020 issued by the respondent, quash the same.

For Petitioners : M/s.D.Geetha

For Respondent : Mr.D.Shanmugaraja Sethupathi
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent Bank.

2.The respondent Bank is a District Central Co-operative Bank. It has a number of branches all over the district. By the impugned proceedings dated 14.09.2020, the petitioners herein have been transferred from one branch to another. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and allow the writ petition as prayed for.



W.P(MD)No.16174 of 2020

WEB COPY

4.The respondents have filed an affidavit and the learned Standing Counsel took me through its contents. He submitted that the impugned proceedings do not warrant interference.

5.I carefully considered the rival contentions and went through the materials on record. I straightaway endorse the stand of the learned counsel appearing for the petitioners that Jewel Appraisers working in Co-operative Societies cannot be termed as employees or workmen unless the bylaws of the Society provide otherwise. The orders engaging the writ petitioners as Jewel Appraisers have been enclosed in the typed set of papers. It is seen that the petitioners have been appointed as Jewel Appraisers on contract basis. Only an employee can be visited with an order of transfer. A non-employee who has been engaged to serve the institution cannot be subjected to an order of transfer. The impugned proceeding contains four columns. The first column indicates serial number, the second column indicates the names of the Jewel Appraisers, the third column sets out the places in which the petitioners are presently working and the fourth column sets out the names of the branches to which the writ petitioners stand transferred. Even though the first part of the proceedings employ expression “சேவை செய்ய மாற்று ஏற்பாடு”, Column No.4 is a giveaway.



W.P(MD)No.16174 of 2020

The petitioners cannot be compelled to work in the transferred places. In this view of the matter, respectfully applying the ratio set out in a catena of decisions, the impugned proceedings stand quashed.

6.At the same time, the Management cannot be compelled to re-engage the petitioners if they have served in a given place for more than three years. The impugned proceedings contain a reference to the Registrar's letter dated 02.03.2020. It is true that this communication of Registrar was not originally served on the petitioners. But then along with vacate stay petition, the typed set of papers have been filed and in the said typed set of papers the communication of the Registrar has been enclosed. The said communication has not been challenged till date. While I have no hesitation to set aside the impugned proceedings whereby the petitioner have been transferred, I will not be justified in compelling the respondent to continue to engage the petitioners. This is because the respondent is bound by the direction issued by the Registrar of Co-operative Societies from time to time. The Registrar has categorically mandated that no Jewel Appraiser working in the same branch for more than three years should be continued. It is for the petitioners and the authorities to re-negotiate and re-work the terms of engagement.



W.P(MD)No.16174 of 2020

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

10.03.2023

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

To

The Joint Registrar / Managing Director,
Tuticorin District Central Cooperative Bank,
109/5D, Ettayapuram Road,
Polpettai,
Tuticorin – 628 002.



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