



W.P.(MD).No.16374 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16374 of 2023

R.Muthuselvi

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
No.170, N.V.Natarajan Maaligai,
Periyar EVR High Road,
Poonamalle High Road,
Kilpauk,
Chennai – 10.

2.The Joint Registrar,
Thoothukudi District Recruitment Bureau for
Co-operative Societies,
No.39B, T.R.Naidu Street,
Thoothukudi – 02.

3.The Sub Registrar of Kovilpatti Co-operative Society,
Kovilpatti Co-operative Society Sub Registrar Office,
Kovilpatti, Thoothukudi District

4.The President of Public Co-operative Society Pandagasalai,
O.1009 Kovilpatti Public Co-Operative Society Pandagasalai,
Kovilpatti. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to regularize the service of the petitioner with all monetary and attendant



W.P.(MD).No.16374 of 2023

benefits as per the Circular No.7/2021 (RC.No.103607/2007/SF2) dated 09.09.2021 and Circular No.28/2022/Sa Pa 2 dated 09.11.2022 issued by the first respondent in the light of the order passed by this Court dated 19.02.2021 in W.P.No.21440 of 2015.

For Petitioner : Mr.R.Rajamohan
For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to regularize the service of the petitioner with all monetary and attendant benefits as per Circular No.7/2021 (RC.No.103607/2007/SF2) dated 09.09.2021 and Circular No.28/2022/Sa Pa 2 dated 09.11.2022 issued by the first respondent in the light of the order passed by this Court dated 19.02.2021 in W.P.No.21440 of 2015.

2.Heard Mr.R.Rajamohan, learned counsel appearing for the petitioner and Mr.M.Prakash, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.



W.P.(MD).No.16374 of 2023

3.The petitioner was appointed as a Saleswoman in 26ED002 Ration shop under the supervision of Kovilpatti Co-operative Society on 06.07.1989. The petitioner is continuously serving for the past 34 years. She has a qualification of Higher Secondary School Education and her appointment is not sponsored by the Employment Exchange. However, she has completed 480 days of continuous service within a period of two calendar years as provided under the Tamil Nadu Industrial Establishments (conferment of Permanent Status to Workmen) Act, 1981. The petitioner's employment is not regularized so far and she is not granted with regular pay scale and she is getting time scale of pay. A batch of Salesmen in the Co-operative Societies appointed between 08.07.1980 to 12.03.2001, in an identical situation has preferred a batch of Writ Petitions before this Court in W.P.No. 21440 of 2015 etc. batch and this Court by order dated 19.02.2021, passed favourable orders to the petitioners therein and the relevant portion of which is extracted as follows:-

"37. In view of the above discussion, all the Writ Petitions are disposed of with the following directions:



W.P.(MD).No.16374 of 2023

a. All those Petitioners/Respondent Employee, as the case may be who have at the time of their appointment, fulfilled their educational qualification, who have been appointed in a sanctioned post within the cadre strength, and are in regular scale of pay, are declared to have satisfied the substantial/mandatory qualification prescribed under Rule 149(1) of the Rules;

b. The appointments not being sponsored by the employment exchange, as prescribed under Rule 149(2) of the Rules, will only make the appointments;

c. All those Petitioners/Respondent Employee, as the case may be who have fulfilled the criteria stipulated in Clause (a), shall be regularised by the Respondents by issuing appropriate proceedings within a period of 8 weeks from the date of receipt of copy of this Order by taking the cut-off date as 12.03.2001;

d. The regularization of service of the Petitioners/Respondent Employee, as the case may be will not entail them with any additional monetary benefits except the consequential benefits which flows from such regularization; and e. The benefit of regularization that is extended to the eligible Petitioners/Respondent Employee, as the case may be shall also be extended to all those employees who are similarly placed even though they have not knocked the doors of this Court.”



W.P.(MD).No.16374 of 2023

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4.In the said order, this Court has held that the benefit of regularization should be extended to all the eligible employees who are similarly placed persons even though they have not knocked at the doors of this Court. Based on the said order, dated 19.02.2021, the first respondent issued Circular No.7 of 2021, dated 09.09.2021, to regularize the service of employees, who were appointed from 08.07.1980 to 12.03.2001. The petitioner was appointed as a Saleswoman on 06.07.1989 and hence she is well covered under the order passed by this Court. Hence, the petitioner sent a representation on 20.01.2021 seeking to regularize her service. The same was considered by the fourth respondent, for which, the petitioner received a reply dated 17.11.2022 that the third respondent has directed the fourth respondent to take appropriate action in the issue of the petitioner as per the circular of the first respondent dated 09.09.2021. However, no fruitful action has been taken so far. Hence, this Writ Petition came to be filed.

5.The learned Additional Government Pleader appearing for the respondents filed a counter-affidavit and also relied upon the order passed by the Hon'ble Apex Court in ***A.Umarani Vs. Registrar, Co-***



W.P.(MD).No.16374 of 2023

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operative Societies and others reported in **Manu/SC/0571/2004**, pressed for dismissing the Writ Petition. Further, he submitted that in Circular No.7/2021 issued by the first respondent, on 09.09.2021, wherein it is stated as follows:-

"6.All the Cooperative Societies under the control of the Registrar of Cooperative Societies in which employees who were appointed from 08.07.1980 to 12.03.2001 in contravention of service rules are continuing in service and whose services are not regularized shall immediately convene a special board meeting to consider the subject of the adoption of the transitory special by-law specified in para 5 above and pass necessary resolution in this behalf and to convene a special general body meeting within a month by following the due procedure for the purpose of adoption of the above said transitory special by-law. Immediately after the above said transitory special by-law is adopted by the general body, the society concerned shall send application to the Circle Deputy Registrar concerned for registration of the above said transitory special by-law."



W.P.(MD).No.16374 of 2023

6.Relying on the same, the learned Additional Government Pleader appearing for the respondents submitted that so far, the special board meeting as specified in the said circular to consider the case of the petitioner has not been convened, as a result of which, the respondents are not in a position to consider her representation at this point of time. Relying upon another Circular No.28 of 2022 of the first respondent dated 09.11.2022, he submitted that, 27510 employees were regularized and 5313 employees are yet to be regularized and the same is kept pending for convening the special board meeting in this regard.

7.Considering the rival submissions, this Court is of the considered view that the petitioner's case is a fit case to be considered positively by the respondents and hence, this Court directs the respondents to regularize the service of the petitioner with all monetary and attendant benefits as per Circular No.7 of 2021, dated 09.09.2021 and Circular No.28 of 2022, dated 09.11.2022 issued by the first respondent and in the light of the order passed by this Court in W.P.No.21440 of 2015 etc., batch, dated 19.02.2021 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.(MD).No.16374 of 2023

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8.With the above direction, this Writ Petition is disposed of.

There shall be no order as to costs.

08.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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W.P.(MD).No.16374 of 2023

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W.P.(MD).No.16374 of 2023

L.VICTORIA GOWRI, J.

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W.P.(MD)No.16374 of 2023

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