



W.P(MD)No.16445 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD).No.16445 of 2023

K.Mariappan

...Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Department of Co-operative Food &
Consumer Protection Department,
Fort St. George,
Chennai-600 009.

2.The Registrar of Co-operative Societies,
Kilpauk,
Chennai-600 010.

3.The Joint Registrar of Co-operative Societies,
Virudhunagar Region,
Virudhunagar,
Virudhunagar District.

4.The Deputy Registrar of Co-operative Societies,
Srivilliputhur Circle,
Srivilliputhur,
Virudhunagar District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, direct the respondents to



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regularize the petitioner's service from the date of his appointment (i.e) from 16.12.1985 by giving appropriate promotion on par with the candidates, who were joined with the petitioner and provide all the monetary benefits and revised pension benefits by considering the representation given by the petitioner, dated 20.05.2023.

For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking direction to the respondents to regularize the petitioner's service from the date of his appointment (i.e) from 16.12.1985 by giving appropriate promotion on par with the candidates, who were joined with the petitioner and provide all the monetary benefits and revised pension benefits by considering the representation given by the petitioner, dated 20.05.2023.

2. Heard the learned Counsel for the petitioner and the learned Special Government Pleader for the respondents and carefully perused the materials available on record.



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3. The petitioner was originally appointed as Junior Inspector of Co-operative Society on temporary basis on 16.12.1985. In the meanwhile, all the temporary Junior Inspectors were ousted from service on 09.10.1990, including the petitioner. The said termination was put to challenge in O.A.No.3127 of 1990 etc., batch before the Tamil Nadu Administrative Tribunal. On 11.07.1991, the aforesaid batch was allowed by directing the authorities to re-instate all those applicants, who were originally employed as temporary Junior Inspectors with all service and monetary benefits. On 10.11.1988, vide G.O(Ms)No.271 of the Co-operative Food and Consumer Protection, a special qualifying examination by Tamil Nadu Public Service Commission (TNPSC) was introduced in order to regularize the services of temporary Junior Inspectors of Co-operative Societies. The examination was held on 15.10.1989 and the petitioner also participated in the said examination. However, the results of the said examination was withheld, in view of the minor penalty which was imposed on him on 22.07.1987.

4. The petitioner approached the Tamil Nadu Administrative Tribunal in O.A.No.710 of 1993, challenging the withholding of his result



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by the TNPSC with respect to his qualifying examination held on 15.10.1989. The said application was dismissed on 11.04.2002. Against which, the petitioner filed a writ petition in W.P.No.43605 of 2002 before this Court and the same was allowed. The petitioner had secured 93 marks as against the qualifying mark of 160 in the said examination. Therefore, he was entitled to be appointed as Junior Inspector on par with other similarly placed persons. On that basis, he was re-appointed as Junior Inspector of the Co-operative Society on 21.07.2008. Pursuant to his appointment, an order was issued on 01.09.2009, granting appropriate seniority to him with effect from 16.10.1989 (i.e.,) the date when the qualifying examination was conducted.

5. The Government has issued G.O(Ms)No.324 of the Co-operative Food and Consumer Protection Department, dated 09.12.1997, extending all benefits including the monetary benefits to all the Junior Inspectors from 10.10.1990 till re-employment. Those persons, who succeeded before the Tribunal, originally came to be re-appointment in 1997 was extended with benefits including monetary benefits with effect from 10.10.1990. However, the petitioner was not granted with the said monetary benefits though he was identically placed like that of the other Junior Inspectors.



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While so, the fourth respondent vide order, dated 27.07.2020, re-fixed the petitioner's pay and treated the period in which, he was ousted from service from 10.10.1992 to 20.07.2008 as duty period for the purpose of re-fixation of his pay in pension benefits. In the meanwhile, the other similarly placed Junior Inspectors were promoted as Senior Inspectors in the year 1995 and thereafter, promoted as Co-operative Sub Registrar in the year 2008 and subsequently retired from service. Hence, the petitioner made a representation, dated 20.05.2023 seeking to regularize his service from the date of his appointment from 16.12.1985 by giving appropriate promotion on par with the candidates, who joined with him and provide all the monetary benefits and revised pension benefits. The same was not considered. Hence, this writ petition came to be filed.

6. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article



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226 of Constitution of India and direct them to consider the same within a stipulated time.

7. Without going into the merits of the case, this Court hereby direct the respondents to consider the representation made by the petitioner, dated 20.05.2023 and pass appropriate orders in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above said observation, this writ petition stands disposed of. There shall be no order as to costs.

05.09.2023

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

To

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L.VICTORIA GOWRI, J.,

BTR

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