



W.P(MD)No.17810 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.10.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17810 of 2023

and

W.M.P(MD)Nos.14871 &14872 of 2023

K.Manoharan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Co-operation, Food and Consumer Protection Department,
Fort St.George,
Chennai-600 009.

2.The Registrar of Co-operative Societies,
170, E.V.R.Periyar Road,
Kilpauk, Chennai-600 010.

3.The Joint Registrar of Co-operative Societies,
Collectorate,
Dindigul,
Dindigul 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 quash the impugned order passed by the 2nd respondent in Rc.No. 34682/2021/EM3, dated 02.03.2022, quash the same as illegal and consequently directing the respondents 1 to 3 herein to regularize the



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service of the petitioner as 'Junior Inspector', w.e.f. 16.10.1989, F.N. i.e., the date of next to the date of sitting of the Special Qualifying Examination conducted by the TNPSC for the 10(a) (i) Junior Inspectors of Cooperative Societies and effect the date of reappointment retrospectively with all notional, service and continuity benefits including seniority and qualifying service for grant of pension and other benefits on par with similarly placed persons by extending the benefits of G.O.(2D)No.26, Co-operation, Food and Consumer Protection (CL2) Department, dated 03.03.2023 within a stipulated time as fixed by this Court.

For Petitioner : Mr.S.Bharathy Kannan

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

The present writ petition has been filed challenging the order, dated 02.03.2022 wherein the request of the petitioner to count the out of employment period as a qualifying service for the purpose of calculation of pension has been rejected.

2. The writ petitioner was appointed as a Junior Inspector under 10 (a) (i) in the year 1986. On 22.04.1987, he was ousted from service. According to the learned counsel appearing for the writ petitioner, the



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Government passed an order in G.O.Ms.No.50, Co-operation, Food and Consumer Protection(CL2) Department, dated 19.01.1989 wherein the Government had decided to hold a special recruitment drive by directing the ousted employees to appear for a qualifying examination to be conducted by TNPSC.

3. The petitioner has appeared in the examination on 16.10.1989 and he had passed the said examination on 15.11.1991. The petitioner was reappointed on 10.04.1992 and attained superannuation on 30.06.2019.

4. After attaining superannuation, the petitioner has approached the authorities to treat the non-duty period between 1987 to 1992 as a duty period and to calculate the said period for the purpose of calculation of pension. However, the said request has been rejected. Challenging the same, the present writ petition has been filed.

5. According to the learned counsel appearing for the petitioner, 16 persons who were similarly placed had filed W.P.No.15439 of 2014 seeking a similar relief and the said writ petition was allowed on



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21.09.2017. The respondents herein have accepted the said order, issued proceedings on 16.03.2019 with regard to those 16 persons. Another set of 9 persons have filed W.P.No.19220 of 2021 seeking a similar relief. The said writ petition was allowed on 03.12.2021. Accepting the said order, the Government was pleased to pass G.O.(2D).No.42, dated 24.05.2023 conferring the said benefit of the said 9 persons. Therefore, according to the learned counsel appearing for the writ petitioner, he is one among the persons who were ousted along with those beneficiaries. He had also appeared for the qualifying examinations along with those beneficiaries. Therefore, a similar benefit may be accorded to the writ petitioner.

6. Per contra, the learned Special Government Pleader has contended that the petitioner cannot rely upon the orders obtained by the other Junior Inspectors and he cannot seek negative equality. He further contended that the petitioner had raised this issue only after his retirement. The petitioner having participated in the qualifying examination that was conducted in the year 1989, cannot seek to regularize or count the services during the period when he was out of employment. Therefore, he prayed for dismissal of the writ petition.



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7. I have carefully considered the submission made on either side and perused the materials available on record.

8. It is not in dispute that the petitioner was one among several persons, who were appointed as Junior Inspectors on 10 (a) (i) basis and later, they were ousted. All the ousted employees had appeared for the qualifying examination conducted by TNPSC and later, they were appointed on regular basis. Some of the persons who had appeared for the qualifying examination along with the writ petitioner have already approached this Court and obtained favourable orders. Those orders have also been complied with by the concerned department by issuing Government Orders. Therefore, this Court does not find any reason to discriminate the writ petitioner.

9. In view of the above said facts, the order impugned in the writ petition is set aside and the respondents are directed to treat the non-duty period between 16.10.1989 to 10.04.1992 as qualifying service for the purpose of calculation of pension. The petitioner may be conferred with the benefits that were granted to the other beneficiaries under



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G.O.Ms.No.56 Co-operation, Food and Consumer Protection(CL2)

Department, dated 11.05.2020 and G.O.2D.No.42, Co-operation, Food and Consumer Protection (CL2) Department, dated 24.05.2023. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.10.2023

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

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To

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Co-operation, Food and Consumer Protection Department,
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Chennai-600 009.

2.The Registrar of Co-operative Societies,
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3.The Joint Registrar of Co-operative Societies,
Collectorate,



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Dindigul,
Dindigul District.



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R.VIJAYAKUMAR,J.

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Order made in
W.P(MD)No.17810 of 2023

Dated:
06.10.2023