



W.P.(MD).No.20104 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 02.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20104 of 2023

and

W.M.P(MD) Nos.16572, 16573 and 22714 of 2023

R.Rajendran
Deputy Registrar of Co-operative Societies
(Retired)
No.1-33-4/3, Anandapuri Nagar,
2nd Street, Madurai Road,
Aruppukkottai,
Virudhunagar District – 626 101.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai – 9.

2. The State of Tamil Nadu,
Represented by its Additional Chief Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai – 9.

3. The Registrar of Co-operative Societies,
Office of the Registrar of Co-operative Societies,
No.170, NVN Maligai,
E.V.R.Periyar High Road,
Kilpauk, Chennai – 600 010.

... Respondents



W.P.(MD).No.20104 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his Letter No.19982/CE1/2022-3, dated 11.05.2023 and quash the same as illegal and consequently to direct the respondents for granting notional promotion as Joint Registrar of Co-operative Societies on the date on which the batch-mates and juniors were got promoted in the light of punishment order set-aside by the first respondent by his proceedings in G.O.(D).No.168 Co-operation, Food and Consumer Protection (CD2) Department, dated 15.07.2022.

For Petitioner	: Mr.C.Venkatesh Kumar for M/s.Ajmal Associates
For Respondents	: Mr.S.Shaji Bino Special Government Pleader

ORDER

The present Writ Petition has been filed by a retired Deputy Registrar of Co-operative Societies challenging the order passed by the second respondent herein on 11.05.2023, wherein, the request of the writ petitioner seeking notional promotion from the date on which his juniors were promoted, was rejected.



W.P.(MD).No.20104 of 2023

WEB COPY

2. The petitioner was issued a Charge Memo under Rule 17 (a) of the Tamil Nadu Civil Services (D&A) Rules, on 25.01.2012. The petitioner was imposed a punishment of stoppage of increment for a period of one year and six months on 10.10.2012. Challenging the said punishment, the petitioner had filed an appeal before the first respondent, which was confirmed on 25.11.2013. Challenging the said order, the petitioner had filed Writ petition in W.P(MD) No.9508 of 2014. The said writ petition was allowed on 04.02.2020 quashing the order of punishment.

3. In the meantime, the juniors of the writ petitioner were promoted as Joint Registrar on 30.07.2013. The petitioner had attained superannuation on 30.11.2015. After attaining superannuation, the petitioner had sent a representations to the authorities on 08.08.2022 and 26.11.2022 requesting them to grant notional promotion from the date on which his juniors were promoted. Since the said representations were not considered, the petitioner had filed W.P(MD) No.4314 of 2023. This Court, by order, dated 01.03.2023 had directed the first respondent therein to consider the same and pass orders. In compliance with the said order, the present impugned order has been passed by the second respondent herein.



W.P.(MD).No.20104 of 2023

WEB COPY

4. A perusal of the impugned order indicates that since the petitioner was undergoing punishment during the relevant period when the juniors were promoted, he cannot seek the same benefits. It was further pointed out that the petitioner having attained superannuation on 30.11.2015, is not entitled to the said benefits. The impugned order further points out that the juniors were promoted only on a temporary basis and therefore, the said benefits cannot be extended to the writ petitioner. This order is under challenge in the present writ petition.

5. The learned counsel appearing for the writ petitioner contended that once the order of punishment is set aside by the High Court, it should be construed that no punishment at all was imposed on the writ petitioner and the petitioner is eligible to be promoted as Joint Registrar on the date when his juniors were promoted. Even assuming that the juniors were promoted on a temporary basis the said promotion should have been granted to the writ petitioner.

6. Per contra, the learned Special Government Pleader appearing for the respondents had contended that when the juniors of the writ petitioner were



W.P.(MD).No.20104 of 2023

promoted on 30.07.2013, the punishment imposed upon the writ petitioner was subsisting and the writ petition was allowed only on 04.02.2020. In the meantime, the petitioner had already attained superannuation on 30.11.2015. Therefore, the request of the petitioner for promoting him as Joint Registrar after attaining superannuation is not maintainable. He further pointed out that the juniors were promoted only on a temporary basis and the said benefits cannot be extended to the writ petitioner.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

8. The facts narrated about clearly indicate that the punishment imposed upon the writ petitioner in the departmental proceedings were set aside by the High Court on 04.02.2020. Therefore, it is clear that it should be presumed that no punishment at all was imposed on the writ petitioner. It is also an admitted fact that the juniors of the writ petitioner were promoted to the post of Joint Registrar on 30.07.2013 and the petitioner had attained superannuation only on 30.11.2015. Therefore, only in cases, the juniors were promoted after the date of superannuation of the writ petitioner, the request of



W.P.(MD).No.20104 of 2023

the writ petitioner cannot be considered. But in the present case, the juniors have been promoted even while the writ petitioner was in service.

9. In view of the above said facts, the order impugned in the writ petition is set aside. The second respondent is directed to notionally promote the writ petitioner on a temporary basis as Joint Registrar on par with his juniors who were promoted on 30.07.2013 and confer all monetary benefits which were conferred upon his juniors. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above said observations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

02.11.2023

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



W.P.(MD).No.20104 of 2023

WEB COPY To

1. The Principal Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai – 9.
2. The Additional Chief Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai – 9.
3. The Registrar of Co-operative Societies,
Office of the Registrar of Co-operative Societies,
No.170, NVN Maligai,
E.V.R.Periyar High Road,
Kilpauk, Chennai – 600 010.



WEB COPY



W.P.(MD).No.20104 of 2023

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.20104 of 2023

02.11.2023