



W.P.(MD)No.3833 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 3833 of 2016

and

W.M.P(MD)Nos. 3443 & 17317 of 2016

943, Azhgiyapandipuram Primary Agriculural
Co-operative Credit Society Limited,
Azgiyapandipuram Post,
Kanyakumari District,
Rep. by its President.

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Nagercoil,
Kanyakumari District.

2. R.Cyril John Peter

3. V. Sundaravel

... Respondents

[R-3 is impleaded, vide order of this Court, dated 15.06.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorari***, calling for the records relating to the impugned proceedings of the 1st respondent in Na.Ka.3588/2015 Sa Pa dated 17.12.2015 and quash the same.



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For Petitioner : Mr. M.Jerin Mathew, for
M/s.M.E.Ilango

For R-1 : Mr. P.Thambidurai
Government Advocate

For R-2 : Mr.K.P.Narayana Kumar

For R-3 : Mr.S.Karthick Subramanian
(Impleaded Respondent)

ORDER

The writ petition is filed by the Society challenging the order passed by the 1st respondent in Na.Ka.No.3588/2/2015 SAPA dated 17.12.2015.

2. The contention of the petitioner's society is that the 2nd respondent was granted the post of Secretary in-charge and he was allowed to serve for a period from 01.02.2015 to 28.05.2015. Subsequently, based on certain allegations of misappropriation and other allegations, his in-charge post was withdrawn and reverted as Assistant Secretary. The said reversion was challenged by the petitioner by way of filing revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 before the 1st respondent/Revisional authority



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and said the revision was allowed through the impugned order. Aggrieved over the same, the petitioner's Society is before this Court.

3. Pending writ petition, the 2nd respondent died on 06.02.2022.

4. The contention of the petitioner's society is that the initial promotion to the post of Clerk itself is illegal, since the 2nd respondent has not completed 3 years of service in the previous post. For more than one reasons, the contention of the petitioner's society cannot be accepted. One such reason is that while conducting an inquiry for commissions and omissions against the petitioner, the respondent cannot question the promotion of the petitioner to the post of Clerk. Moreover, the 2nd respondent died on 06.02.2022 and therefore, any order cannot be passed against the 2nd respondent. Hence, this Court is confirming the revision order, dated 17.12.2015 passed by the 1st respondent.

5. At this juncture, the learned counsel appearing for the 2nd respondent submitted that the 2nd respondent was not paid any terminal benefits because of the pendency of the writ petition.



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6. In the meanwhile, one V.Sundaravel, who was serving in the post of the 2nd respondent for a period from 30.08.2011 to 09.06.2014 has filed an impleading petition in ***W.M.P(MD)No.17317 of 2016 in W.P(MD)No.3833 of 2016 is allowed.*** Since the said V.Sundaravel is a necessary party in this writ petition, this impleading petition is allowed. Registry is directed to implead the said V.Sundaravel, as the 3rd respondent in the main petition.

7. The contention of Sundaravel is that the 2nd respondent was posted in his place. Therefore, he is seeking the said place and if the benefits are granted to the 2nd respondent the same would affect his service benefits and he prays to dismiss the writ petition.

8. It is seen from the records that the Sundaravel was suspended from service on 09.06.2014. Hence, the said Sundaravel cannot claim the post which the 2nd respondent was serving, until completion of the Sundaravel's disciplinary proceedings. Therefore the 2nd respondent is entitled to remain in the promoted post. Now, the 2nd respondent died. Therefore, the petitioner Society shall not disturb the 2nd respondent's service. The petitioner society shall take the



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2nd respondent service in the promoted post of clerk and disburse all terminal benefits. After the demise of the 2nd respondent, the resultant vacancy shall be considered to the said Sundaravel, if otherwise the said Sundaravel is entitled to.

9. Accordingly, the Petitioner Society is directed to pay entire terminal benefits, which is applicable to the 2nd respondent in the promoted post of clerk, within a period of 12 weeks from the date of receipt of a copy of the order.

10. With these observations and directions, this writ petition stands dismissed. No Costs. Consequently, ***W.M.P(MD)No.17317 of 2016*** is allowed and ***W.P(MD)No.3443 of 2016*** is closed.

Index : Yes / No

15.06.2023

Internet : Yes

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To

The Joint Registrar of Co-operative Societies,
Nagercoil,
Kanyakumari District.



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S.SRIMATHY, J

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**Order made in
W.P.(MD)No. 3833 of 2016**

15.06.2023