



W.P.(MD).No.29233 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.29233 of 2022

V.Ramkumar

... Petitioner

Vs.

1.The Regional Joint Registrar of
Co-operative Societies,
District Collectorate Campus,
Virudhunagar Region,
Virudhunagar District.

2.The Deputy Registrar of Co-operative Societies,
O/o. The Deputy Registrar of Co-operative Societies,
Srivilliputtur,
Virudhunagar District.

3.SP.SPL.78, Enjar Primary Agricultural
Co-operative Credit Society Ltd.,
Represented by its President Enjar.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order, dated 30.11.2022 passed by the 2nd respondent in Na.Ka.10092/2022/Tho.Ve.Sa and quash the same as illegal and consequently direct the respondents to provide appointment to the petitioner on compassionate grounds for the post of Salesmen or any other eligible post.



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For Petitioner : Mr.P.R.Prithviraj
For R1 & R2 : Mr.P.Thambidurai
Government Advocate
For R3 : No representation

ORDER

The present writ petition has been filed to call for the records pertaining to the impugned order, dated 30.11.2022 passed by the 2nd respondent in Na.Ka. 10092/2022/Tho.Ve.Sa and quash the same as illegal and consequently direct the respondents to provide appointment to the petitioner on compassionate grounds for the post of Salesmen or any other eligible post.

2. The petitioner's father one Veerasingam was appointed in the 3rd respondent Society on 25.01.1997 as a Packer. While in service, he passed away on 02.08.2020 and he was survived by the petitioner, his mother, grand mother and 3 brothers. The petitioner is a B.E Mechanical Engineer. He made an application to the 2nd and 3rd respondents on 02.09.2022 seeking appointment on compassionate ground in the 3rd respondent society. Pursuant to the petitioner's application, the 3rd respondent agreed to appoint him in compassionate ground and passed a resolution to this effect on 17.09.2022 and



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forwarded the said resolution along with the representation of the petitioner to the 2nd respondent for necessary action. However, the 3rd respondent issued impugned order of rejection of the petitioner's representation on 30.11.2022. The ground of rejection is that the petitioner father's service was not regularized even at the time of his lifetime. Challenging the same, this writ petition came to be filed.

3. The 2nd respondent has filed a counter and the learned Government Advocate submitted that the petitioner is not entitled for appointment on compassionate ground. The Government of Tamil Nadu has issued guidelines for appointment on compassionate ground vide G.O.Ms.No.18 Labour and Employment (Q1) Department, dated 23.01.2020. In terms of the mandates of the said Government Order, it is not possible to accommodate the legal heir of an employee, whose service was not regularized during his lifetime and provide him with employment. Hence, he pressed for dismissal of the writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and perused the materials available on record.



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5. However, this matter is no more res integra. I have dealt with a similar case in W.P(MD)No.16364 of 2023, dated 08.08.2023 and passed a favourable orders to the petitioner therein and the relevant portion of which is extracted as follows:

5.However, the learned counsel appearing for the petitioner relied upon the Judgment passed by the Hon'ble Division Bench of this Court in W.A(MD)No.558 of 2009, dated 09.11.2009 (The Special Officer Vs. The Deputy Registrar and others), in a similar case, wherein this Court gave a favourable verdict to the petitioner. The relevant portion of which is extracted as follows:-

“6.As far as the first contention of the learned counsel for the appellant is concerned, it is true that there is no scheme in the appellant society for providing compassionate appointments. Nevertheless, it is an admitted fact that such appointments are being made in deserving cases. Therefore, merely because there is no scheme available, the request for compassionate appointment cannot be denied. As far as the impugned order in the writ petition rejecting the request for compassionate appointment is concerned, the Society has rejected the request wholly on the ground that the deceased husband of the first respondent was not regularized. In our opinion, having regard to the fact that the deceased employee had put in 15 years of service and in the absence of any scheme stipulating conditions as to consideration of



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compassionate appointment to the dependants of a regular employee, whether such employee has been made permanent or yet to be made permanent would be highly too technical to reject the application for appointment on compassionate ground. That apart, factually the name of the deceased employee was recommended by the Special Officer of the society in his proceedings dated 29.03.1996 for regularization along with similarly placed persons. However, before such recommendation was given effect to, unfortunately, the employee died on 15.11.1996. From the records it is also seen that within a period of 14 days, ie., on 29.11.1996, the all other persons numbering 14 and whose names were also recommended along with the deceased employee were regularized. The deceased employee could not be regularized as by that time he was not alive. Had been alive, he would have also also been regularized in service. In view of that, the argument of the learned counsel for the appellant that the deceased was not regularized and therefore, the first respondent cannot seek for compassionate appointment cannot be accepted.”

6.Following the same, the learned Single Judge of this Court in W.P(MD)No.1524 of 2020, dated 04.02.2020 (P.Pandeeswaran Vs. The Registrar of Co-operative Society and others) has permitted compassionate appointment for the legal heirs of the temporary employee. The relevant portion of which is extracted as follows:-

“7.It is also not disputed by the respondents that the services of the similarly placed employees, who had rendered services along with the petitioner's father, have now been



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regularized. This goes without saying that, had the petitioner's father been alive during that relevant point of time when the services of the similarly placed employees were regularized, the services of the petitioner's father also would have been regularized. The unfortunate and untimely death of the petitioner's father during his services, cannot now be cited as a reason that his services were not regularized and therefore, deprived the petitioner to the benefit of on compassionate appointment.

7.In another case in M.Venkatesh Vs. the Principal Secretary to Government reported in (2021) 2 MLJ 282, the Hon'ble Division Bench of this Court, in a similar case, has held as follows:-

“7. The issue, similar to the present one, has been decided by this Court in various cases and this Court has held that if an employee was qualified for regularization as on the date of his death, then the claim of his legal heirs cannot be rejected. In the present case also, the appellant's father was qualified for regularization as on the date of his death since he had worked for more than 28 years. Therefore, the claim of the appellant cannot be rejected.”

8.This Court is fully in consonance with all the verdicts passed by this Court in the order/Judgment mentioned supra. This is a case where the petitioner's father, who was appointed as attender at the first instance, from which post, he was promoted as a Clerk, who remained in the service of the second respondent Society from 19.02.1988 to 17.06.2021 without regularization ie., for a period of 33 years.



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9.This Court in a batch of Writ Petitions in W.P.Nos.6425 of 2021 etc batch, dated 12.03.2021 (G.Thamaraiselvan Vs. The Registrar of Co-operative Societies (Housing) and others), has given a direction to the Government to extend the benefit of regularization to all the persons who are similarly placed even though they have not knocked at the doors of the Court.

6. In the line of the said judgment, observing that the petitioner's father been alive, he would have been automatically regularized in service. This Court observes that it is not legally correct for the respondents to reject the application made by the petitioner seeking employment on compassionate ground. In view of the same, this Court quash the impugned order, dated 30.11.2022 passed by the 2nd respondent and consequently, direct the respondents to grant an appointment to the petitioner on compassionate ground within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed.

No costs.

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

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Co-operative Societies,
District Collectorate Campus,
Virudhunagar Region,
Virudhunagar District.
- 2.The Deputy Registrar of Co-operative Societies,
O/o. The Deputy Registrar of Co-operative Societies,
Srivilliputtur,
Virudhunagar District.



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L.VICTORIA GOWRI, J.

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