



W.A.(MD).No.2123 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).No.2123 of 2023
and C.M.P.(MD).No.16994 of 2023

K.Nagalingam

.. Appellant/Writ Petitioner

Vs.

- 1.The Registrar of Cooperative Societies,
O/o. the Registrar of Cooperative Societies,
170, E.V.R. Highroad,
Kilpauk,
Chennai – 10.
- 2.The Joint Registrar of Cooperative Societies,
O/o. Joint Registrar of Cooperative Societies,
District Collectorate Complex,
Theni.
- 3.The Circle Deputy Registrar of Cooperative Societies,
Uthamapalayam,
Theni District.
- 4.The Administrator,
DD 136 Dombucherri Primary Agricultural Cooperative Credit Society,
Dombucherri, Bodinaickanur Taluk,



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Theni District.

5.D.Karthiga Devi

...Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 01.11.2023 in W.P.(MD) No.25068 of 2023 on the file of this Court.

For Appellants : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 to R3

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.)

The Writ Appeal has been instituted against the order dated 01.11.2023, in W.P.(MD) No.25068 of 2023.

2. The writ petitioner is the appellant before us. The Writ Petition was filed to direct the respondents 2 and 3 to consider the representation of the Employees Union dated 19.09.2023 and to direct the respondents 1 to 4 to grant promotion to the petitioner to the post of Attender as per the orders passed in W.P.(MD) No.3972 of 2023, dated 13.02.2023, as per the recommendations of the Field Officer and the Resolution of the Board of



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Management dated 18.04.2023, forwarded to the respondents 2 and 3, recommending the petitioner for promotion to the post of Attender.

3. Learned Single Judge held that the entire issue relating to the promotion of the petitioner to the post of Attender is in the hands of the Administrator of the Society and he has to consider the issues and take a decision based on the Special Bylaws and by following the provisions of the Tamil Nadu Cooperative Societies Act and Rules. Learned Judge further held that the petitioner would not be entitled to seek further mandamus for a promotion to the post of Attender.

4. Learned Single Judge is right in forming an opinion that promotion can never be claimed as an absolute right. However, consideration for promotion is a fundamental right of an employee. In the event of taking a decision to fill up the promotional posts, the competent authority has to consider the names of all the eligible persons who all are aspiring to secure promotion in the order of their seniority. Therefore, we do not find any infirmity in respect of the order impugned in the present Writ Appeal.



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5. However, the learned counsel for the appellant brought to our notice that the 5th respondent Mrs.D.Karthigadevi earlier filed a Writ Petition in W.P.(MD) No.16121 of 2023 for a direction to provide employment to her on compassionate ground. The said Writ Petition was disposed of on 30.08.2023, issuing a direction to the Society Management to provide employment to the petitioner therein under the compassionate ground to a suitable post.

6. As far as the compassionate appointment is concerned, the reference made about G.O.Ms.No.18, Labour and Employment Department, dated 23.01.2020, was extended to the Employees of the Cooperative Societies or not has not been adjudicated. The applicability of the Government compassionate Scheme to the Cooperative Society is also to be considered by the Society Management as well as by the Registrar of Cooperative Societies and the Deputy Registrar of Cooperative Societies, that apart, the indigent circumstances of the family, the eligibility criteria fixed, if any, by the Scheme for compassionate appointment in force. Therefore, compassionate appointment cannot be directly granted without



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scrutinizing the indigent circumstances of the family of the deceased employee and other criteria fixed under the Scheme of Compassionate Appointment. More so, the compassionate appointment Scheme applicable to the Government is applicable to the Cooperative Societies or not is also to be looked into by the authorities and if so, all the conditions stipulated by the Government are to be scrupulously followed.

7. Compassionate appointment is a concession and not a right. Therefore, we are of the opinion that the directions issued in W.P.(MD) No. 16121 of 2023 is also to be considered with reference to the Scheme, if any, in force and by following the conditions stipulated therein.

8. As far as the claim of the writ appellant before us to promote him to the post of Attender is concerned, the writ appellant has to approach the Revisional Authority under Section 153 of the Tamil Nadu Cooperative Societies Act. Even in the absence of any decision by the Management of a Cooperative Society, an aggrieved employee may approach the Revisional Authority under Section 153 of the Tamil Nadu Cooperative Societies Act.



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This being the scope of Section 153, the appellant is at liberty to approach the Revisional Authority in the manner contemplated for the purpose of considering his name for promotion, if any administrative decision is taken to fill up the post of Attender in the Cooperative Society.

9. With the above observations, this Writ Appeal stands disposed of. Consequently, connected Miscellaneous Petition is closed.

(S.M.S.,J.) (V.L.N.,J.)
15.12.2023

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

To

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