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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.6123 of 2019

S.Venugopal

.. Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
4A, Vanthavasi Road,
Kancheepuram-631 001,
Kancheepuram-District.
- 2.The Deputy Registrar of Co-operative Societies
Chengalpattu Region,
Alagesan Nagar,
Chengalpattu.
- 3.S.Vijayarangan,
Ex-Vice-President, Atomic Energy Employees Consumers,
Co-operative Stores Ltd., G.2160, No.13, 11th Street,
DAE Township, Kalpakkam,
Kancheepuram-District.
- 4.The President
Atomic Energy Employees Consumers,
Co-operative Stores Ltd., G.2160, No.13, 11th Street,
DAE Township, Kalpakkam, Kancheepuram-District.

.. Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the for records of the second respondent relating to his proceedings in Na.Ka.3273/2014 dated 15.06.2017 and the proceedings of the first respondent in Na.Ka.No.7722/2017/SP dated 06.04.2018 and quash the same and consequently direct the respondents 1 and 2 to declare that duly elected President of Atomic Energy Employees Consumers Co-operative Stores Ltd., is entitled to function as such for a period of 5 years even if he retired from service during that period unless and until he is resigned or removed from the post of President of the Employees Co-operative society in a manner known to law.

For Petitioner	.. Mr.K.Lavan
For R1 & R2	.. Mr.V.Manohar, Additional Government Pleader.
For R4	.. Mr.L.P.Shanmugasundaram
For R3	.. No appearance

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus, calling for the records of the 2nd respondent, Deputy Registrar of Cooperative Societies, Chengalpattu Region, Chengalpattu in



proceedings in Na.Ka.3273/2014 dated 15.06.2017 and also the proceedings of the first respondent, the Joint Registrar of Co-operative Societies, Chengalpattu Region, Chengalpattu in Na.Ka.No.7722/2017/SP dated 06.04.2018 and quash both the proceedings and direct the said respondents to declare that the duly elected President of the Atomic Energy Employees Consumers Co-operative Stores Limited is entitled to function for a period of five years even if he had retired from service during that period unless and until he resigns or removed from the post of President of the Atomic Energy Employees Consumers Co-operative Stores Limited.

2.It is to be pointed out that the petitioner can canvas his case alone and not the case of any other stranger, who is not a party to the writ petition. Therefore, the relief is sought only to extend his period as President of the Society.

3.In the affidavit filed in support of the writ petition, it had been stated that the petitioner herein, Dr.S.Venugopal was working as Scientist in the Department of Atomic Energy at Kalpakkam. He retired on attaining the age of superannuation on 30.11.2015. He was also a member of the Atomic



Energy Employees Consumer Co-operative Stores with membership No.3155. He contested the elections which was held on 27.04.2013 for the post of Director and was elected as a Director. There are totally 11 Directors in the society. All of them had thereafter elected the petitioner as President of the Society. The term of the President is for a period of five years. The petitioner assumed office on 09.05.2013. He retired on 30.11.2015 even before the expiry of the five years. Holding that since he had retired from service, he ceased to be a member of the Society, the impugned order by the 2nd respondent came to be passed.

4.In that particular order, the 2nd respondent had stated that since the post of President had fallen vacant, by invoking Rule 57(1) of the Tamil Nadu Cooperative Societies Rules, 1988, the Vice-President was placed in-charge of the post of President and thereafter, a direction was given to call for a fresh application for the post of President. The petitioner herein had filed a writ petition against the said order. The 1st respondent herein is the Revisional Authority. He passed the 2nd impugned order dated 06.04.2018, wherein the revision was rejected and the impugned order passed by the 2nd respondent was affirmed. Questioning both those orders, the present writ petition has been filed.



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5. The main thrust of the arguments advanced by the learned counsel for the petitioner is that, in the special bye-laws of the Cooperative Society, there is no any specific bye-law stipulating that on retirement from service a member ceases to be a member of the Society. It is also contended that such a stipulation has not been provided anywhere in the Tamil Nadu Cooperative Societies Act, 1983 or in the Tamil Nadu Cooperative Societies Rules, 1988. It is therefore contended that, the direction issued that the post of President had fallen vacant under Rule 57(1) of the Tamil Nadu Cooperative Societies Rules is not correct and is illegal and therefore, has to be set aside by this Court.

6. The learned counsel for the petitioner asserted that in the absence of any specific rule that a member ceases to be a member of the society on attaining the age of superannuation, it is to be deemed that he continues to be a member and therefore, the learned counsel asserted that the impugned orders have to be set aside by this Court.



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7. On the other hand, it is contended by the respondents that since the petitioner had attained the age of superannuation, by efflux of time, the connection as employer or employee or as a member of the society ceases and is cut and therefore, since there is no further employer and employee relationship, the petitioner cannot claim any further right to continue as member of the Society. Once he cannot claim any right to continue as member of the Society, naturally he cannot claim to continue as the President of the Society. One of the primary condition is that the President who is incidentally one of the Directors will have to be elected by the members and the person who can contest for the post of Director should be eligible to so contest and one of the eligibility criteria is that, he should be a member of the Society. Since the petitioner has retired, he ceased to be a member and therefore, ceased to be a Director and naturally, therefore, ceased to be the President of the Society. It is therefore contended that the writ petition should be dismissed.

8. I have carefully considered the arguments advanced.



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9. The facts are not in dispute. The petitioner was a member of the Atomic Energy Employees Consumers Co-operative Stores Limited. This is a Cooperative Society. He had become a member of the Society, owing to his employment in the Department of Atomic Energy at Kalpakkam. Additionally, he was also residing within the township. He therefore satisfied two fundamental basic qualifications to be a member namely, employee in the Department of Atomic Energy at Kalpakkam and resident of the Kalpakkam Township. He could be an employee of the Department of Atomic Energy, but not be a resident, then he could not become a member of the Society. If he is a resident of the township and not an employee, he cannot become a member. Therefore, he has to satisfy the twin conditions.

10. The petitioner herein had satisfied the twin conditions. He was a scientist in the Department of Atomic Energy. He was therefore a member of the Society since he was an employee of the Department of Atomic Energy and also a resident of Kalpakkam Township. He was also eligible to contest for the post of Director of the Society. The elections were held on 27.04.2013. He was elected as a Director. Thereafter, among the Directors, he was elected as the President of the Society.



11.The petitioner then attained the age of superannuation on 30.11.2015. Naturally, he ceased to be an employee of the Department of Atomic Energy. So far as that particular Department is concerned, on and from the date when he retired, he became a stranger to the said Department. He was no longer an employee. He can no longer receive salary. He can no longer enter the office with authority. He also has no vested right to reside in the Township.

12.The learned counsel for the petitioner pointed the document stating that the petitioner was permitted to continue to reside in the quarters for an additional period of one year. That was only a permission to temporarily occupy the quarters and not to occupy the same because he was an employee. It was a permission granted in view of the hardships he would have faced, if he were directed to vacate the quarters immediately on the date of retirement. Therefore, some consideration was given to him to continue to reside in the quarters. That does not give any vested right to the petitioner to reside in the quarters permanently and claim that he should be deemed to continue as a member of the Society. Once he retired, he ceased automatically to be a member. He lost every right to reside in the



Township. A permissive right given to reside for a limited period of time cannot be exploited to his advantage by the petitioner.

13.The learned counsel for the petitioner also pointed a resolution passed by all the other Directors requesting him to continue as President. The resolution was not worded that merely because he had retired, he is deemed to continue as President. They were aware that his term as President had expired. They did not state that the post of President has not fallen vacant. Since it had fallen vacant, they requested the petitioner to continue to act as the President of the society. This itself shows that a vacancy had arisen in the post of President.

14.Since the petitioner was no longer an employee and since the petitioner had no right to continue to reside in the township, he automatically ceased to be a member of the Society. There need not be any specific right in this Rule. The Rules contemplate resignation of a member. The Rules contemplate removal or dismissal or any other disqualifications of a member. But, once a person retires from service, the relationship between employer and employee is cut and no longer exists. It is a



fundamental principle in service law. Once a person retires, he has no further right to enter into the office and sign in the attendance register and has no further right to receive salary. If he comes back to the office after retirement, he could be termed as a stranger. Once an employee attains a particular age when he has to retire from service, he retires. The petitioner, had therefore, retired from service. He was not given any extension in his employment. He was only give a permissive temporary right to reside in the quarters.

15. In the impugned order, it had been stated that under Rule 57(1) of the Tamil Nadu Cooperative Societies Rules, 1988 since the post of President had fallen vacant, the 2nd respondent had directed the Vice-President to act as President till elections are conducted for the post of President. Rule 57(1) of the Tamil Nadu Cooperative Societies Rules, 1988 is as follows:

“57. Exercising powers and performing functions of the President in certain circumstances.-

(1). When the office of the President is vacant, the vice-President shall exercise all the powers and perform all the functions of the President, until the election of a successor to the office of the President.”



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16.The learned counsel for the petitioner pointed out the aforementioned Rule and stated that the post of President had not fallen vacant. The said contention of the learned counsel cannot be accepted by this Court and is rejected. The petitioner has retired from service. Once he retired from service, he ceased to be a member of the Society. Once he ceased to be a member of the Society, he no longer can hold on to the post of Director of the Society. Once he cannot hold on to the post of Director of the Society, naturally, he cannot claim to be the President of the Society. Each status follows the other.

17.The basic fact is that the petitioner had retired on superannuation. He has to move forward in life and cannot come back to his place of work and circulate there and claim to be a member and President and also claim a right to continue as President. That right stands extinguished on and from the date on which he retired from service. The employer no longer requires him. He has no further right to continue in employment. Therefore, by efflux of time, on the date of his attaining the age of superannuation, the post of President had fallen vacant. I hold that the 2nd respondent had



correctly stated that the post of President had fallen vacant and that the Vice-President could act as interim President.

18. The learned counsel for the petitioner pointed out the bye-laws of the Society, which was framed in the year 1962. It provided that a member shall be a person who is residing in that particular Township. Once a person is no longer an employee in the Department of Atomic Energy, he has no right to reside in that Township. If only residence in township are to be taken into consideration as a criteria, then not only the employee but every family member could claim to be independent members of the Society and claim to contest in the elections and claim to act as the President of the Society. That is impermissible. Therefore, two separate conditions namely, employment and residence are stipulated. If the employment ceases, qualification to reside is interfered with and such right to continue to reside in the premises stands extinguished. Any permission granted to reside in the quarters is only for the convenience of the person for whom such permission is granted. It is not based on the employment in the Department of Atomic Energy. Therefore, the Rule stated does not come to the assistance of the petitioner herein.



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19. Rule 9 of the said Bye-law is as follows:

“9. Should a member cease to be eligible for membership either on account of the removal of his residence from the limits prescribed in by-law 1 or for any other cause, the society shall remove his name from the list of members and shall pay back within a reasonable period to such member, the share capital actually paid by him with the dividend declared, if any, after deducting there from the money, if any, due from him to the society.”

20. It provides that, if a member ceased to be eligible for membership either on account of (i) removal of residence or (ii) for any other cause, then the Society shall remove his name from the list of members. The words "*any other cause*" is wide enough to include every contingency. It would also include the contingency of there not being any employer and employee relationship. There cannot be two distinct clauses that a person need not be an employee and still be a member. It cannot also mean that a person need not reside in that Township and still be a member. Such an interpretation of the Rule defies logic.



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21. The 1st respondent in his order, after extracting the grounds, had finally affirmed the order of the 2nd respondent. In the order of the 1st respondent, reference had been made to Rule 5(1)(a) of the Bye-law, which speaks about a resident in the Township. Section 23(4) of the Tamil Nadu Cooperative Societies Act, is as follows:

“23. Disqualifications for membership of society:-

(1).....

(2).....

(3).....

(4) Any question as to whether an applicant for admission as a member of a society is, or a member of a registered society was, or has become, subject to any of the disqualifications mentioned in this section, shall be decided by the Registrar.”

22. This is only an enabling provision for the 1st respondent to pass an order on the revision. It gives the authority to pass an order and accordingly, the 1st respondent had passed the order rejecting the claim of the petitioner to continue to be considered as President, since he had retired on superannuation. I hold that the petitioner has not made out any grounds to interfere with the impugned orders.



WEB COPY 23. With the above observations, this Writ Petition stands dismissed.

No costs.

26.11.2024

Index: Yes/No
Internet: Yes/No
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To

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4A, Vanthavasi Road,
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C.V.KARTHIKEYAN,J.

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W.P.No.6123 of 2019

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