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W.A. No.1072 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No.1072 of 2024 and C.M.P. No.7700 of 2024

- 1 The Registrar of Cooperative Societies
No.170, N.V. Natarajan Maligai
Periyar EVR High Road
Kilpauk
Chennai 600 010
- 2 The Chairman
District Recruitment Bureau
Erode District
O/o the Joint Registrar of Cooperative Societies
Erode
Erode District

Appellants

v

P. Kalairani

Respondent

Writ Appeal filed under Clause 15 of the Letters Patent challenging the
order dated 07.11.2023 passed in W.P. No.24279 of 2021.

For appellants

Mr. R. Neelakandan, Addl. Adv. Gen.
assisted by Mrs. Geetha Thamaraiselvan
Special Government Pleader

For respondent

Mr. L.P. Shanmugasundaram



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JUDGMENT

(delivered by R. MAHADEVAN, J.)

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Mr. L.P. Shanmugasundaram, learned counsel, waives notice for the respondent.

2 For the sake of easy understanding, the parties are referred to as per their rank in this writ appeal.

3 Pursuant to the notification issued by the second appellant calling for applications for filling up 73 vacancies in the post of Assistant, the respondent applied and participated in the written examination and oral test. However, the list of eligible candidates released contained the names of 71 candidates only, leaving a balance of 2, on the ground that there were no suitable candidates in S.T. (PSTM) and General Turn (Women-Hard of hearing/hearing impairment). To be noted, the respondent's name did not figure in the said list. The unfilled 2 vacancies were taken as backlog vacancies. Out of 71 candidates selected, except five candidates, the remaining 66 candidates joined duty. The unfilled 5 vacancies were treated as fresh vacancies.



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4 While so, the respondent preferred a writ petition being

W.P.No.17787 of 2021 seeking a mandamus directing the appellants to appoint him in the reserve list/waiting list. Based on the submission made by the learned Government Advocate that the respondent will be appointed if he is otherwise eligible, the writ petition was disposed of by a learned Judge *vide* order dated 21.09.2021 directing the appellants to appoint the respondent by operating the reserve list/waiting list.

5 However, in pursuance of the said order, the respondent was informed by the second appellant *vide* order dated 26.10.2021 that the waiting list had got lapsed and also that he had not secured enough marks to be accommodated in the waiting list.

6 Challenging the said order and also seeking a direction to appoint him as Assistant, the respondent filed a second writ petition being W.P. No.24279 of 2021 and the final order dated 07.11.2023 passed in the said second writ petition filed by the respondent, is under assail in the instant writ appeal.



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7 At this juncture, it is worth mentioning that when W.P. No.24279

of 2021 was heard on 25.04.2022, (before W.P. No.24279 of 2021 was finally disposed of *vide* order dated 07.11.2023), it was submitted by the learned Additional Advocate General that when W.P. No.17787 of 2021 came up for admission, based on the inadvertent submission of the learned Government Advocate that the respondent will be appointed, if he is otherwise eligible, which is contrary to the statutory rules, W.P. No. 17787 of 2021 was disposed of by recording the said submission of the learned Government Advocate and hence, time may be granted to file a review application. Based on the said submission of the learned Additional Advocate General, W.P. No.24279 of 2021 stood adjourned.

8 Subsequently, while the respondent preferred Cont. Petn. No.1430 of 2022 alleging wilful noncompliance of the order dated 21.09.2021 passed in W.P. No.17787 of 2021, the appellants preferred Review Application No.98 of 2022 seeking review of the very same order dated 21.09.2021 passed in W.P. No.17787 of 2021.

9 Both the contempt petition and review petition were heard by the same Judge who disposed of W.P. No.17787 of 2021. The learned Judge, by



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common order dated 29.09.2022, finding that no contumacious act had been committed by the appellants, dismissed the contempt petition and closed the review application, leaving all the issues open to be decided independently in W.P.No.24279 of 2021.

10 The learned Judge, who heard W.P. No.24279 of 2021, *vide* order impugned dated 07.11.2023, observing that the waiting list got lapsed only owing to the negligence on the part of the appellants and not thanks to any fault attributable to the respondent, disposed of the writ petition by directing the second appellant to understand the purport of the order dated 21.09.2021 passed in W.P. No.17787 of 2021. The said order dated 07.11.2023 is under siege in this writ appeal.

11 Today, when this writ appeal was taken up for admission, the learned Additional Advocate General made a fair submission that the appellants have understood the real purport of the order dated 21.09.2021 passed in W.P. No.17787 of 2021. Not stopping with that, he further submitted that the appellants have also understood the purport of the common order dated 29.09.2022 passed in Cont. Petn. No.1430 of 2022 and Rev. Appln. No.98 of 2022.



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12 In view of the aforesaid fair submission of the learned Additional Advocate General, no further orders are required to be passed in this writ appeal and accordingly, this writ appeal stands closed. No costs. Connected C.M.P. stands closed.

13 While parting, this Court hastens to add that though this writ appeal could have been simply closed merely based on the fair submission made by the learned Additional Advocate General in paragraph 11, *supra*, it is only the several rounds of litigation and the peculiar facts obtaining in this case which necessitated this Court to venture to advert to the facts of the case threadbare in paragraphs 3 to 10, *supra*.

cad

[R.M.D, J.] [M.S.Q, J.]
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and

MOHAMMED SHAFFIQ, J.

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