



WEB COPY



W.P.No. 5942 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**W.P.No.5942 of 2024
and
W.M.P.No.6592 of 2024**

M.Annadurai

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Petitioner

Vs

1. The Joint Registrar of Cooperative Societies,
Salem Region, Salem, Salem District.

2. The Administrator,
S.1308 Ammapettai Urban Cooperative
Credit Society, Ammapettai, Salem – 636 003.

3. Joedani

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Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.10833/2022 Na.Va, dated 12.01.2024 and quash the same and consequently directing the respondents 1 and 2 to promote the petitioner as Clerk in the second respondent society by fixing seniority as and above the third respondent seniority.



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For Petitioner : Mr.C.Prakasam

For R1 & R2 : Mr.Arun Kumar
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the proceedings in Na.Ka.10833/2022 Na.Va, dated 12.01.2024 passed by the first respondent, thereby rejected the request made by the petitioner seeking promotion to the post of Clerk in the second respondent Society.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 & 2 and perused the materials available on record.

3. The petitioner was appointed as a Salesman in the Fair Price Shop run by the second respondent Society on 01.06.1999. After completion of his probation, his service was regularised by the second respondent on 18.01.2001. While being so, the Registrar of Co-operative Societies issued a letter dated 03.08.2021 to all the Joint Registrar of Cooperative Societies in the State of Tamil Nadu, removed certain anomalies



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and modified the earlier letter dated 02.02.2009. Accordingly, The Registrar of Cooperative Societies, Chennai has advised all the Regional Joint Registrar of Cooperative Societies that eventhough the employees working in the public distribution system were not included in the cadre strength of the Primary Agricultural Cooperative Credit Society, if they satisfy the required qualification and on completion of three years satisfactory service, they were eligible for promotion to the Primary Agricultural Cooperative Credit Societies. However, the case of the petitioner was not considered for promotion.

4. While being so, the second respondent, without preparing any panel to the post of Clerk, promoted the third respondent as a Clerk in the second respondent Society. According to the petitioner, he is the senior most person and he has to be promoted to the post of Clerk. Therefore, the petitioner submitted a representation and the same is pending. The petitioner approached this Court in W.P.No.19106 of 2023 and this Court directed the first respondent to dispose of the representation submitted by the petitioner. In view of the direction issued by this Court, the first



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respondent passed an order, thereby rejected the request made by the petitioner. Hence, this writ petition.

5. A perusal of the order passed by the first respondent reveals that as directed by this Court, the petitioner and the third respondent were given an opportunity of hearing and a detailed enquiry was conducted by the first respondent. The enquiry reveals that the petitioner was appointed as a Salesman on 01.06.1999 without consulting the Administrative Committee and his candidature was also not recommended by the employment office. He was appointed as a Salesman on daily wage basis. Though the petitioner was not appointed in a proper manner, the service of the petitioner was regularised from 08.07.1980. In order to regularise the persons, who were appointed in a proper manner, the Government passed an order in G.O.Ms.No.86, dated 12.03.2001 for regularisation. However, the petitioner was not regularised as per the Government order. A Circular No.7 of 2021 was issued and Transitory Bylaws were enacted, which reads as follows :-

“Notwithstanding anything contained in these special by-laws, the employees who were appointed from 08.07.1980 to 12.03.2001 in controvention of the provisions



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of the Act, the rules and these special by-laws and whose services are not regularised, but who are still continuing in service of the society, are eligible for promotion to the immediate next higher category of post provided that they possess the minimum General Educational Qualifications namely SSLC with the eligibility for admission to Universities under the old regulations (Eleven Years courses or completion of the first year of Higher Secondary Course (11 Years) or for appointment under the Tamil Nadu Government Service and Cooperative Training, where cooperative training is prescribed as a necessary other qualification for the promotional post in the special by-laws of the society”.

6. As per the Circular No.28 of 2022 issued by the Registrar dated 09.11.2022, those who were appointed in an appropriate manner from 08.07.1980 to 12.03.2001 and not regularised, have to be placed above than the persons who are working at present as on 22.04.2021 as per the approved seniority list. Therefore, the petitioner was placed as junior to the third respondent and therefore, the third respondent was rightly promoted to the post of Clerk. Hence, this Court finds no infirmity or illegality in the proceedings in Na.Ka.10833/2022, dated 12.01.2024 passed by the first



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respondent. Thus, the writ petition is devoid of merits and it is liable to be dismissed.

7. Accordingly, this Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

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Index: Yes/No
Speaking Order: Yes
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To

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G.K.ILANTHIRAIYAN, J.



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