



W.P.No.9328 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.9328 of 2022

R.Arunkumar

... Petitioner

-Vs-

1. The Zonal Joint Registrar of
Co-Operative Society,
O/o. Joint Registrar of Co-operative Society,
District Collectorate Complex,
Villupuram District.

2. The Deputy Registrar of Co-operative
Credit Society,
O/o, Deputy Registrar of Co-operataive
Credit Society,
Tindivanam, Villupuram District.

3. The President,
CL.Spl.93 Rettanai Primary Agricultural
Co-Operative Credit Society,
Rettanai Village and Post,
Tindivanam Taluk, Villupuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records of the second respondent in vide Ref. No. N.K.No. 07/ 2022 / PAS order dated 27.01.2022 quash the same and accordingly direct the third Respondent to consider for an appointment on compassionate grounds to the petitioner.



W.P.No.9328 of 2022

For Petitioner : Mr.K.Krishna
For R1 to R3 : Mr.S.Arumugham
Government Advocate

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent in vide Ref.No.N.K.No.07/2022/PAS dated 27.01.2022 and quash the same and direct the third Respondent to consider for an appointment on compassionate grounds to the petitioner.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner's father one late Rajasekaran had joined the third respondent Co-operative Society as Salesman, on 28.11.1995. While he was in service, he died on 09.12.2019. The petitioner, being his son aged about 23 years and having qualified with +2, applied for employment on compassionate ground. His application was recommended by the Sub-Registrar of Co-operative Society, Mailam, stating that no age limit has been prescribed for the said post, but the incumbent is a qualified person as required and that he is the legal heir of the deceased employee and he also submitted No Objection



W.P.No.9328 of 2022

Certificate from other legal heirs to provide employment to the petitioner. The third respondent has also recommended to the second respondent to sponsor the name of the petitioner for appointment to the post of Salesman on compassionate ground, by its communication dated 29.04.2021. However, the request made by the petitioner was rejected, on the ground that his father's employment was not through proper procedure and he was not regularized.

4. The learned counsel for the petitioner relied upon the Judgment of this Court reported in ***CDJ 2021 MHC 425***, in the case of ***A.Sivakumar Vs. The Secretary to Government, Food, Co-op. & Consumer Protection Department, Chennai and others***, thereby this Court held that the services of all the petitioners therein were directed to be regularized and therefore, the petitioner's father's services also deemed to have been regularized and the impugned order cannot be sustained.

5. A perusal of the recommendation of the third respondent dated 29.04.2021 revealed that the petitioner's father was employed as Salesman in the third respondent Society. He was not appointed through a proper channel. However, while he was in service, he died on 09.12.2019. He had continuously



W.P.No.9328 of 2022

worked and fulfilled the conditions of 480 days, within a period of two years of his service. Therefore, the respondents ought have regularized his service. Till his lifetime, he was not regularized and thereafter, he died. Therefore, in failure on the part of the respondents cannot be put against the petitioner's father. Therefore, it requires to be construed that there was a deemed regularization granted to the petitioner's father, in view of the failure on the part of the respondent to comply with the earlier orders of this Court.

6. This Court by an order dated 19.02.2021 in the case of ***A.Sivakumar Vs. The Secretary to Government, Food, Co-op. & Consumer Protection Department, Chennai and others***, reported in ***CDJ 2021 MHC 425***, held as follows:-

“37. In view of the above discussion, all the Writ Petitions are disposed of with the following directions:

a. All those Petitioners/Respondent Employee, as the case may be who have at the time of their appointment, fulfilled their educational qualification, who have been appointed in a sanctioned post within the cadre strength, and are in regular scale of pay, are declared to have satisfied the substantial/mandatory qualification prescribed under Rule 149(1) of the Rules;

b. The appointments not being sponsored by the employment exchange, as prescribed under Rule 149(2) of the Rules, will only make the appointments irregular and not illegal;



W.P.No.9328 of 2022

c. All those Petitioners/Respondent Employee, as the case may be who have fulfilled the criteria stipulated in Clause (a), shall be regularised by the Respondents by issuing appropriate proceedings within a period of 8 weeks from the date of receipt of copy of this Order by taking the cut-off date as 12.03.2001;

d. The regularization of service of the Petitioners/Respondent Employee, as the case may be will not entail them with any additional monetary benefits except the consequential benefits which flows from such regularization; and

e. The benefit of regularization that is extended to the eligible Petitioners/Respondent Employee, as the case may be shall also be extended to all those employees who are similarly placed even though they have not knocked the doors of this Court. Accordingly, the batch of writ petitions are disposed of. No costs. Consequently, all the connected miscellaneous petitions are closed.”

7. In a similar case, this Court ordered to construe the service of the deceased person as deemed regularization and cited the Judgment of the Hon'ble Supreme Court of India in the case of ***Sheo Narain Nagar and Others Vs. State of Uttar Pradesh*** reported in **2018 (13) SCC 432**, wherein it was held as follows:-

“20. It is clear from the above judgements that paragraph 53 of the judgement in Umadevi’s case (cited supra) has given rise to a glimmer of hope for all those employees whose appointments are irregular but who have voluntarily and continuously worked for ten years or more in a duly sanctioned post with prescribed minimum qualifications. In no uncertain terms, the Hon’ble Supreme Court has held that those category of employees who fulfil this criteria as on 10.04.2006 will be entitled to be considered for regularization.”



W.P.No.9328 of 2022

8. Thus, in view of the above, the petitioner's father is deemed to have been regularized in service under the orders of this Court and since an irregular appointee, who has put in more than 10 years of service is also entitled for the benefit of regularization of his service. Therefore, the reason stated in the impugned order cannot be sustained and is liable to be quashed.

9. Accordingly, the order passed by the second respondent in vide Ref. No. N.K.No. 07/ 2022 / PAS dated 27.01.2022, hereby quashed. The third respondent is directed to appoint the petitioner in a suitable post in the third respondent Society on compassionate ground, within a period of eight weeks from the date of receipt of a copy of this order.

10. In the result, this writ petition is allowed. There shall be no order as to costs.

29.01.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn



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W.P.No.9328 of 2022

To

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O/o. Joint Registrar of Co-operative Society,
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W.P.No.9328 of 2022

G.K.ILANTHIRAIYAN. J,

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W.P.No.9328 of 2022

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