



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.15723 of 2021 and
W.M.P.No.16625 of 2021

C.Mariappan

... Petitioner

Vs.

The Registrar of Cooperative Societies,
170, E.V.R.Periyar Salai,
Kilpauk, Chennai 600 010.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of the respondent made in Rc.No.16888/2019 EM3 dated 16.04.2021 and to quash the same and to consequently, direct the respondent to settle the terminal benefits including appropriate pension with continuity of service.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.P.Ganesan, GA



ORDER

WEB COPY

This Writ Petition has been filed for quashment of the order of the respondent made in Rc.No.16888/2019 EM3 dated 16.04.2021 and consequently, to direct the respondent to settle the terminal benefits including appropriate pension with continuity of service.

2. Heard the learned counsel on both sides and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the petitioner was appointed as Junior Inspector of Co-operative Societies on temporary basis on 16.06.1986. The petitioner was ousted from service on 21.04.1987 for want of vacancies. On 10.11.1988, G.O.Ms.No.271, Cooperative, Food and Consumer protection, was issued providing for special qualifying examination by Tamil Nadu Public Service Commission, in order to regularise the services of temporary junior inspectors of cooperative societies. The examination was held on 15.10.1989, in which, the petitioner had participated along with others. Immediately thereafter, the results came to be published, but the result of the petitioner and some others were withheld.



WEB COPY

In the meanwhile, the petitioner along with others approached the Tamil Nadu Administrative Tribunal and direction was issued to regularise the service of the persons as already done to other similarly unsuccessful candidates in the Cooperative Audit Department in G.O.Ms.No.445 dated 20.12.2005. As the benefit of regularization was not properly extended to all similar persons, the petitioner along with others filed W.P.No.11322 of 2009 for reappointment and for regularization with consequential benefits of both service and monetary. This Court by an order dated 27.01.2010, had directed to reappoint and regularise the services as already done to other similar persons through G.O.No.158 dated 22.05.2007 and G.O.No.153 dated 13.08.2008. Against which, an appeal was filed and the same was dismissed and SLP was also dismissed by directing the respondent in R.C.No.41406/2009/EM3 dated 31.05.2013 for reinstatement with effect from the date of issue of the above said order with other consequential benefits to all other similarly placed persons like that of the petitioner, but he alone has been singled out by granting prospective benefits without proper recourse to the order.



WEB COPY

4. He further submitted that as the petitioner reached the age of superannuation during June 2019, he gave a representation dated 28.06.2019 to the respondent for consideration of the benefits which would inure to him favouring certain fringe benefits in regard to his pension and other pensionary dues. Since the representation was not considered, the petitioner filed a petition before this Court in W.P.No.1087 of 2021 and this Court, by an order dated 20.01.2021, directed the respondent to consider the representation of the petitioner and to pass appropriate order. As per the directions of this Court, the respondent vide proceedings in Rc.No.16888 of 2019 EM3 dated 16.04.2021, had rejected the claim of the petitioner. Hence, the petitioner has filed the present petition.

5. The learned Government Advocate appearing for the respondent submitted that during April 1987, nearly 300 temporary Junior Inspectors were ousted from service for want of vacancies, as Tamil Nadu Public Service Commission had communicated a list of selected persons to be appointed as Junior Inspectors. Out of those ousted Junior Inspectors, the petitioner is one among them. During 1989, in order to regularise the services of those Junior Inspectors, who were in service at the time, the Government



WEB COPY

proposed to conduct a Special Qualifying Examination by Tamil Nadu Public Service Commission and issued orders vide G.O.Ms.No.271, Cooperation, Food and Consumer Protection Department, dated 10.11.1988. Later, certain Junior Inspectors, who were ousted for want of vacancies during April 1987, submitted a petition before the Hon'ble Governor and on humanitarian ground, the Government had permitted them to appear for the said examination to be conducted by TNPSC. Out of those appeared for the said examination, 63 candidates were failed and the failed candidates, who were in service in Cooperative Department were ousted after the result communicated by TNPSC. The failed candidates in Cooperative Audit Department were managed to serve in that department after obtaining stay in Tamil Nadu Administrative Tribunal. Later, the Government in its G.O.Ms.No.445, Finance (Cooperative Audit) Department, dated 20.12.2005 regularised the services of those failed candidates in Cooperative Audit Department with effect from 16.10.1989 without any arrear of pay.

6. He further contended that after some years, K.Murugesan and 20 others and C.Mariappan and 6 others had filed two Writ Petitions before this Court in W.P.No.25233 of 2008 and W.P.No.11322 of 2009 seeking to



WEB COPY

reappoint and regularise their services. This Court by an common order dated 27.01.2010 allowed the said petitions by directing the respondent to appoint them as Junior Inspectors. In compliance of the same, 21 persons including the petitioner were reappointed as Junior Inspectors vide proceedings R.C.No.41406 of 2009 EM3 dated 31.05.2013 and appointment orders were issued to them. All of a sudden, the reappointment order issued to the petitioner was cancelled stating that there is a criminal case pending against him while he was working as Secretary in Duraisampuram Primary Agricultural Credit Society, Srivilliputhur and furthermore, the petitioner did not even appear for the Special Qualifying Examination. Thereafter, the petitioner was acquitted in the criminal case and he was again reappointed as Junior Inspector. Due to misappropriation of funds, the petitioner was terminated from service on 10.09.2004. By hiding these facts, the petitioner has filed a petition before this Court in W.P.No.1087 of 2021 seeking the benefit given to the failed candidates, who were ousted along with him and sought compliance of the order of this Court dated 27.01.2010. Hence, he is not liable to get pension and continuity of service.



WEB COPY

7. On perusal of the records, it reveals that some major misappropriation were took place in the Duraisampuram Primary Agricultural Credit Society, Srivilliputhur in which the petitioner was working as Secretary and he is solely responsible for the maintenance of records and development of a Society. Enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 was ordered and based on the enquiry report, the petitioner was placed under suspension on 10.09.2004 and surcharge proceedings for recovery of loss were also initiated against him. Thereafter, the petitioner settled the misappropriation amount of Rs.5,36,495/- on 12.09.2016 and his property was brought to auction and the interest amount of Rs.1,03,000/- has also been recovered from him. By hiding all these facts, the petitioner has sought to reappoint him in compliance with direction dated 27.10.2010 in W.P.No.11322 of 2009. Thereafter, the petitioner filed a petition before this Court in W.P.No.1087 of 2021 seeking benefits given to the candidates, who were ousted along with him while in service and this Court by an order dated 20.01.2021, had directed to pass orders on the representation of the petitioner after affording an opportunity to him. After hearing the petitioner and examining the records, the respondent came to the conclusion that the petitioner was involved in misappropriation



of funds and did not have any integrity in public service and worked against the welfare of the cooperative society and hence, rejected the representation of the petitioner and not liable to receive any benefit on par with others as per the concept of 'No Work No Pay'. Hence, this Court is of the considered opinion that the order of the respondent dated 16.04.2021 in R.C.No.16888/2019 EM3 warrants no interference.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.11.2024

vkx

Index : Yes / No

Speaking order / Non-speaking order

To

The Registrar of Cooperative Societies,
170, E.V.R.Periyar Salai,
Kilpauk, Chennai 600 010.



WEB COPY

W.P.No.15723 of



VIVEK KUMAR SINGH, J.

vk

W.P.No.15723 of 2021 and
W.M.P.No.16625 of 2021

08.11.2024