



W.P.No.25761 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **15.07.2024**

CORAM

THE HONOURABLE Ms. JUSTICE **P.T.ASHA**

W.P.No.25761 of 2014

and

M.P.No.1 of 2014

P.Gopal

... Petitioner

-VS-

1.The Secretary to Government,
Co-operative Department,
St.George Fort, Chennai – 9.

2.The Registrar,
Cooperative Societies,
Chennai – 600 010.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, to call for the records of the Impugned order passed by the 2nd respondent in proceedings in Rc.No.49469/2011/EM3 dated 03.12.2012 and quash the same, insofar as it denies the period from 26.11.1991 to 12.03.1992 (107 days) as compulsory wait and quash the same and



W.P.No.25761 of 2014

consequently

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(i) Direct the respondents to treat the period of 107 days from 26.11.1991 to 12.3.1992 as compulsory wait;

(ii) to regularize the period as duty and to pay salary and allowance for the entire period from 10.10.1990 to 06.11.1990 and 26.10.1991 to 12.3.1992 (total 166 days);

(iii) to regularize the annual increments and to grant consequential revision of pay and to pay arrears of pay accruing thereof;

(iv) To revise the retirement benefits like Gratuity encashment of surrender of earn leave and commutation of pension;

(v) to revise the pension with arrears of pension arising thereon.

For petitioner : Mr.R.Murugesan

For respondents : Mrs.P.Vijaya Devi,
Government Advocate

ORDER

The above writ petition has been filed challenging the order dated 03.12.2012 passed by the second respondent, rejecting the



W.P.No.25761 of 2014

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petitioner's request for treating his service period from 10.10.1990 to 06.11.1990 (28 days) and from 26.10.1991 to 12.03.1992 (138 days), totally 166 days, as compulsory wait and to pay the periodical increments and all the service benefits.

2. The petitioner would submit that he had been appointed as a Senior Inspector of Cooperative Societies for training at Chennai on 04.04.1979 and thereafter, posted at several places. He was promoted as Cooperative Sub Registrar/Special Officer at Pudukottai in the year 1993 and later, promoted as Deputy Registrar on 02.05.2008 and he served as such till his superannuation on 30.06.2010.

3. The petitioner would submit that he had sent several representations to the respondents to consider the aforesaid 166 days as compulsory wait and consequently, to pay him periodical increments and all service benefits. Since there was no response for



W.P.No.25761 of 2014

the same, he had filed a writ petition in W.P.No.21982 of 2009 on the file of this Court, seeking a direction to the respondents to consider his representation dated 10.11.2008.

4. By an order dated 28.10.2009, this Court had directed the second respondent to pass orders on the representation dated 10.11.2008 within a period of eight weeks. Thereafter, the impugned order dated 03.12.2012 came to be passed by the second respondent, wherein, the second respondent had treated only the period from 10.10.1990 to 06.11.1990 (28 days) and from 26.10.1991 to 25.11.1991 (31 days) totally 59 days as compulsory wait. The remaining period from 26.11.1991 to 12.03.1992 (107 days) was not treated as compulsory wait, aggrieved by which, the petitioner is before this Court.

5. The respondents has filed a counter *inter alia* contending that the petitioner, while working as a Senior Inspector of



W.P.No.25761 of 2014

WEB COPY

Cooperative Societies in Sivagangai Region, he had acted as a Special Officer in Kallal Cooperative Land Development Bank from 05.09.1990 to 09.10.1990. After the elected Board had assumed charge, he was relieved from the said post with effect from 09.10.1990. However, he was not given any alternative service on being relieved.

6. Thereafter, he was posted as Senior Inspector / Internal auditor in Ramnad District Milk Producers Cooperative Union, in which, he joined on 07.11.1990 and continued till 25.04.1991. (As such he had been put on wait from 10.10.1990 to 06.11.1990). He was later transferred to Manamadurai Cooperative Urban Bank with effect from 26.04.1991 to 25.10.1991 and was relieved from the said post on 25.10.1991 by the order dated 23.10.1991 of the Joint Registrar, Sivagangai District. He was, thereafter, under the control of the Regional Deputy Director of Audit for Milk Cooperative (RDDAMC), Madurai.



W.P.No.25761 of 2014

WEB COPY

7. The respondents would submit that the petitioner had given his willingness to join in the post of Senior Inspector/Auditor, Milk Audit, Manamadurai, but, he was not allowed to join in the post. He was directed by RDDAMC, Madurai, by his order dated 11.11.1991, to contact the office of the Joint Registrar of Cooperative Societies, Sivagangai, regarding his posting.

8. The petitioner was thereafter, given posting as Senior Cooperative Auditor, Tirupathur, *vide* proceedings dated 25.11.1991. However, he did not join in the said post. Instead, he sent a representation dated 27.11.1991 asking RDDAMC, Madurai, to cancel the posting order issued to him to join in Tirupathur and to issue him posting in Manamadurai. By proceedings dated 02.12.1991 of the RDDAMC, Madurai, the aforesaid posting order was cancelled and the individual was directed to approach the Regional Joint Registrar regarding his postings. Since there were no vacancies in the Sivagangai District, the Joint Registrar had



W.P.No.25761 of 2014

WEB COPY

requested the RDDAMC, Madurai, to accommodate the individual. Thereafter, by proceedings dated 03.03.1992 of the Joint Registrar of Co-operative Societies, Sivagangai District, posting orders were issued to the petitioner to join in the office of the Deputy Registrar of Co-operative Societies, Karaikudi, and his posting to the Milk Audit Department was cancelled. The petitioner had joined in the office of the Deputy Registrar of Co-operative Societies, Karaikudi, on 13.03.1992.

9. The petitioner had approached the Tamil Nadu Administrative Tribunal in O.A.No.517 of 1993, seeking to treat the period from 10.10.1990 to 06.11.1990 (28 days) and from 26.10.1991 to 12.03.1992 (138 days) totally 166 days as compulsory wait. The respondents would admit the orders in W.P.No.21982 of 2009. The respondents would submit that the period 59 days has been treated as compulsory wait since the petitioner was not given posting due to administrative reasons. However, the remaining days



W.P.No.25761 of 2014

WEB COPY

of his absence was only on the account of the petitioner not joining the services. Therefore, they had submitted that this period cannot be treated as compulsory wait and consequently, sought for the dismissal of this writ petition.

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

11. A perusal of the documents submitted on the side of the petitioner would clearly indicate that by an order dated 23.10.1991, the Joint Registrar of Co-operative Societies, Sivagangai, had relieved him from the post of Senior Inspector/Internal Auditor at Manamadurai Co-operative Urban Bank and posted him under the control of the RDDAMC, Madurai. However, the petitioner was not given posting since there was no vacancy, which is evident from the order dated 02.12.1991 passed by the RDDAMC, Madurai.



W.P.No.25761 of 2014

WEB COPY

12. Thereafter, by an order dated 16.12.1991, the Joint Registrar, Sivagangai, would once again reiterate that there was no vacancy at Manamadurai and the petitioner was posted as Senior Inspector under the control of RDDAMC, Madurai. By an order dated 03.03.1992, the initial order posting the petitioner at the Milk Audit Department was cancelled and he was directed to report before the Joint Registrar, Karaikudi, and he had also done the same.

13. The above facts would clearly show that the reasoning given for rejecting the request of the petitioner is totally contrary to the true facts. The petitioner had been willing and it is only the respondents who had put him on hold for the rejected period of 107 days. Therefore, the impugned order has to necessarily fail and is accordingly, quashed. Since the petitioner has been superannuated, he shall be provided with all the benefits to which he is entitled to including the monetary benefits on account of declaring the remaining period of 107 days also as compulsory wait. The



W.P.No.25761 of 2014

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respondents are directed to disburse the said benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition stands allowed.

Consequently, connected M.P. stands closed. No costs.

15.07.2024

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa

To

1.The Secretary to Government,
Co-operative Department,
St.George Fort, Chennai – 9.

2.The Registrar,
Cooperative Societies,
Chennai – 600 010.



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W.P.No.25761 of 2014

P.T.ASHA, J.,

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W.P.No.25761 of 2014

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