



W.P.No.18294 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.18294 of 2020
and W.M.P.Nos.22670 & 22671 of 2020 and 7533 of 2021

R.Adhi

... Petitioner

Vs.

1.The Deputy Registrar of Co.op Societies,
Dharmapuri Circlce, Dharmapuri.

2.The President,
K.K.85 Kelavalli Primary Agricultural Co-operative
Credit Society Ltd.,
Kelavalli, Harur Taluk,
Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent in his Na.Ka.No.634/2017 dated 16.06.2020 and the consequential resolution No.202 dated 28.07.2020 passed by the second respondent herein, quash the same and issue consequential directions to the respondents herein to allow the petitioner to continue in the promoted post of Fertilizer Salesman and draw the pay attached to the said post with all service and monetary benefits.

For Petitioner : Mr.Thamaraiselvan



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For Respondents 1 & 2 : Mr.Tamil Nidhi

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ORDER

This writ petition has been filed to call for the records relating to the impugned order of the first respondent in his Na.Ka.No.634/2017 dated 16.06.2020 and the consequential resolution No.202 dated 28.07.2020 passed by the second respondent herein, quash the same and issue consequential directions to the respondents herein to allow the petitioner to continue in the promoted post of Fertilizer Salesman and draw the pay attached to the said post with all service and monetary benefits.

2. Learned counsel for the petitioner submitted that the petitioner initially appointed as Packer on daily wage basis in the Fair Price Shop attached to the second respondent society with effect from 01.07.1995. Thereafter, he was posted as Fertilizer Salesman in additional charge from 18.01.1996. Since the petitioner had not served 480 days within two calendar years, his service was terminated in the year 1998 and he made a representation dated 10.10.1999 to reappoint him and regularize his service



from the date of his initial appointment on 01.07.1995. However, the same was not considered. Hence, he filed writ petition in W.P.No.16826 of 2000 and this Court vide its order dated 29.09.2000, directed the first respondent to consider the petitioner's representation. Thus, the petitioner was reappointed as Packer with effect from 12.12.2000 in the second respondent society.

3. Learned counsel for the petitioner further submitted that subsequent to the reappointment, the petitioner was promoted and posted as Fertilizer Salesman with effect from 01.12.2017 and his pay was also fixed in the scale of pay applicable to 'C' class post with effect from 01.12.2017. The petitioner was serving as Fertilizer Salesman for more than two years and 9 months from 01.12.2017 and receiving the scale of pay attached to that post. This being so, the first respondent by his letter dated 16.06.2020 stated that the petitioner had been given irregular/promotion as Fertilizer Salesman and directed the second respondent to recover the excess pay given to him. However, without giving prior notice, the second respondent vide Resolution No.202 dated 28.07.2020 cancelled the promotion granted to the petitioner as Fertilizer Salesman. Challenging the order dated 16.06.2020 of the first



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respondent directing the cancellation of promotion as Fertilizer Salesman with effect from 01.12.2017 and ordering the recovery of excess pay and the consequential resolution dated 28.07.2020 passed by the second respondent, the petitioner has come forward with the present writ petition.

4. Learned counsel for the petitioner further submitted that the petitioner was promoted to the post of Fertilizer Salesman vide Resolution No.1 dated 30.11.2017 of the second respondent society. However, without issuing prior notice, the respondents have cancelled the promotion of the petitioner. Hence, he prayed for allowing of this writ petition.

5. Learned counsel appearing for the respondents 1 & 2 submitted that since the promotion given to the petitioner is irregular, much against the Registrar circular RCS No.52437/2012/PACS, dated 03.08.2012, the irregular promotion was cancelled. There is no need for giving prior notice for the cancellation of irregular promotion.



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

7. In this case, the petitioner was promoted to the post of Fertilizer Salesman vide Resolution No.1 dated 30.11.2017 passed by the second respondent/society. Thereafter, the said promotion was cancelled by the second respondent vide Resolution No.202 dated 28.07.2020, without giving prior notice or opportunity of hearing to the petitioner, which is in violation of Principles of Natural Justice.

8. The main contention of the respondents is that since the promotion itself is irregular, which is against Registrar Circular RCS No.52437/2012/PACS, dated 03.08.2012, there is no need for any prior notice for cancellation of such irregular promotion and this Court is not inclined to accept the above contention, since the said irregular promotion was granted to the petitioner by the second respondent. If the said promotion is in violation of RCA Circular, the second respondent ought not to have promoted the petitioner to the post of Fertilizer Salesman.



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9. The second respondent having promoted the petitioner in the year 2017 cannot cancel the same on the ground it is irregular by passing a resolution.

10. The first respondent should have initiated action against the second respondent for violating the rules in vogue at the relevant point of time for granting promotion to the petitioner without initiating any action against the President (second respondent). It is not fair and proper on the part of the first respondent to cancel the promotion unilaterally without giving any notice, opportunity to the petitioner, which is in violation of the Principles of Natural Justice.

11. It is mandatory on the part of the first respondent to issue prior notice and also an opportunity of personal hearing before passing the order of cancelling the promotion granted to the petitioner as a Fertilizer Salesman.

12. The petitioner cannot be allowed to suffer demotion for no fault of



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13. In view of the above factual matrix of the case, the order of the first respondent in Na.Ka.No.634/2017 dated 16.06.2020 and the consequential resolution No.202 dated 28.07.2020 passed by the second respondent are liable to be quashed. Accordingly, the same is hereby quashed. Consequently, this Court directs the respondents to allow the petitioner to continue in the promoted post of Fertilizer Salesman and draw the pay attached to the said post with all service and monetary benefits.

14. This writ petition is allowed with the above said observation and directions. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking Order : Yes/No

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To:

- 1.The Deputy Registrar of Co.op Societies,
Dharmapuri Circle, Dharmapuri.
- 2.The President,
K.K.85 Kelavalli Primary Agricultural Co-operative
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Kelavalli, Harur Taluk,
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J.SATHYA NARAYANA PRASAD,J.

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