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W.P.No.23156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.23156 of 2023
and WMP Nos.22701, 22702 & 22703 of 2023

D.Tharanidharan

... Petitioner

-Vs-

- 1.The Joint Registrar of Co-operative Societies/
Revisional Authority
Coimbatore Region
Co-operative Complex
Arokiyasamy Road
K.K.Pudur, Coimbatore-23.
- 2.The Deputy Registrar of Co-operative Societies
Coimbatore Circle, Chinthamani Complex
North Coimbatore, Coimbatore
Coimbatore District.
- 3.The President
K.2069, Veerakeralam Urban Co-operative
Credit Society Ltd.,
No.17, Periyathottam Colony
Veerakeralam
Coimbatore-641 007.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No.Revision



W.P.No.23156 of 2023

Petition.8841/2022/Vae/2, dated 30.06.2023 and quash the same and consequently directing the respondents to promote the petitioner for the post of Salesman in the 3rd respondent society.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.P.Ganesan
Government Advocate
for R1 & R2

Mr.M.Bindran
Additional Government Pleader
for R3

ORDER

This writ petition has been filed challenging the impugned order passed by the 1st respondent in proceedings No. Revision Petition 8841/2022/Vae.2 dated 30.06.2023 and for a consequential direction to the respondent to promote the petitioner to the post of Salesman in the 3rd respondent Society.

2.The case of the petitioner is that he was appointed as Packer in the 3rd respondent Society on 06.02.1998. He was continuing in the same post as Packer in the 3rd respondent Society for nearly 24 years without any promotion.

3.The 1st respondent called for applications for filling up the post of Salesman for more than 153 posts including 5 vacancies in the 3rd respondent Society. The petitioner also made his application. The 3rd respondent rejected the application



W.P.No.23156 of 2023

submitted by the petitioner on the ground that the petitioner did not possess the necessary qualification viz., 10th standard pass.

4.The petitioner filed a revision before the 1st respondent aggrieved by the rejection order passed by the 3rd respondent. The 1st respondent through the impugned order dated 30.06.2023, rejected the claim made by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The 1st respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

6.I submit that the Petitioner was appointed as Packer on 02.02.1998 without reference Employment Exchange. In Register of Coop. Soceties, Chennai Circular No.23/2009 [Rc.114998/2006 Povithi Pothu 2] dt.06.07.2009 educational qualification for Salesman and Packer was fixed as +2 HSC pass and 10th Pass. Accordingly, the Second Respondent vide Rc.No.4862/2011 Ve 1 dt.12.09.2011 registered the amendment to Special Bylaw No.37 (4) in which the educational qualification for Salesman as +2 pass and for the post of Packer 10th Pass was fixed. Furthermore the K.2069 Veerakeralam Primary Agricultural Coop.Credit Society w.e.f 02.11.2014 was converted as K.2069. Veerakeralam Urban Coop. Credit Society. Special Bylaw relating to the service conditions of the employee was also registered lastly on 03.12.2012. In the said Special Bylaw among others, Special Bylaw No.4 specifies “Provided that in the case of the existing



W.P.No.23156 of 2023

employees who re appointed on regular basis and are in the services of the Society as on the date of registration of these Special Bylaws, the educational qualification prescribed column 3 of this clause shall not apply for their continuance in the same posts for their promotion to higher category of posts subsequently provided they possess the minimum general educational qualification namely SSLC pass with eligibility for Higher Secondary course or for appointment under the Tamil Nadu State Service.

7.It is further submitted that in Registrar of Coop. Societies, Chennai Circular No.33/2022 SA 1 [Rc.87428/2022/SA 1] dt.29.12.2022, educational qualification for the existing Packers for promotion as Salesman was fixed as 10th /SSLC pass 'Notwithstanding the educational the educational qualification prescribed in these special bylaw for the post of Fair Price Shop Salesman, any person holding the post of Packer in a Fair price Shop, having the educational qualification of 10th pass and having minimum period of three years of satisfactory service shall be eligible for promotion to the post of Fair Price shop Salesman”.

It is evident from the mere reading of the above Special Bylaw provision, it is crystal clear that to get promotion as Salesman, a Packer must necessarily with educational qualification of 10th/SSLC pass with eligibility for HSC.

6.Heard Mr.C.Prakasam, learned counsel for the petitioner, Mr.P.Ganesan, learned Government Advocate for R1 & R2 and Mr.M.Bindran, learned Additional Government Pleader for R3.

7.The learned counsel for the petitioner submitted that the petitioner joined in



W.P.No.23156 of 2023

the 3rd respondent Society in the year 1998. As on that date, the educational qualification that was prescribed for the post of Salesman for in service candidate was those who have attended 10th standard examination. This was subsequently modified and it was provided that the person must have completed +2 examination. The learned counsel submitted that such modification came only in the year 2009 and the same cannot be put against the petitioner. Since the petitioner fulfills the qualification prescribed under the existing Circular, the petitioner must be promoted to the post of Salesman.

8. In the considered view of this Court, the Circular dated 06.07.2009 initially prescribed the educational qualification for Salesman and Packer. Thereafter, the 2nd respondent registered the amendment to the Special Bylaw through proceedings dated 12.09.2011 in which the educational qualification for Salesman was fixed as +2 pass and for the post of Packer 10th pass. Subsequently, the Special Bylaw relating to the service conditions of the employee was once again registered on 03.12.2012. Special Bylaw No.4 specifies that the existing employees must possess the minimum general educational qualification viz., 10th pass. This was also reiterated through Circular dated 29.12.2022. It was specifically provided that for the post of Fair Price Shop Salesman, the person holding the post of Packer in a Fair Price Shop must possess the educational qualification of 10th pass and must also have the minimum period of 3 years of satisfactory service for the eligibility for promotion to the post of Fair Price Shop Salesman.



W.P.No.23156 of 2023

WEB COPY

9.What is relevant is the Bylaw that is in force as on the date when the promotion is considered. It is quite clear that right from the year 2011 onwards, the existing employee must possess the educational qualification of 10th pass. While considering the claim made by the petitioner for promotion to the post of Salesman, this Bylaw was in force. In view of the same, this Bylaw will cover the service condition of the petitioner. The petitioner cannot take advantage of the earlier Circular that was issued in the year 2009.

10.The above issue has been properly considered by the 1st respondent while rejecting the revision petition filed by the petitioner and the same does not require the interference of this Court.

11.It is made clear that whatever Post that the petitioner is holding as on today shall be continued without causing any disturbance.

12.In the result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

19.08.2024

Internet: Yes
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W.P.No.23156 of 2023

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N.ANAND VENKATESH. J.,

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W.P.No.23156 of 2023

W.P.No.23156 of 2023

19.08.2024