



WP.No.29366 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM:

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

W.P.No.29366 of 2023 and
WMP.No.28996 of 2023

J.Sandhya

... Petitioner

Vs.

- 1.The Joint Registrar of Cooperative Societies,
Tiruvallur Region,
Tiruvallur - Dt
- 2.The Management of,
J.J.709, Eguvarpalayam Primary
Agricultural Cooperative Credit Society,
Eguvarpalayam Village & Post,
Gummidipoondi Taluk,
Tiruvallur Dt

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the second respondent dated 15.09.2023, quash the same and consequently direct the second respondent to reinstate the petitioner with all monetary and service benefits including the backwages.

For Petitioner : Mr.L.P.Shanmugasundaram



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For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 15.09.2023 thereby terminated the service of the petitioner.

2. The petitioner is qualified with M.Sc. Physics. She enrolled her name in Employment Exchange. The second respondent invited eligible candidates from the employment exchange and four names were recommended for appointment to the post of Sub-Staff. The petitioner attended the interview and she was appointed as per Rule 149 of Tamilnadu Cooperative Societies Act. As per the bye-laws of the Board, after 8 years of service, she was not considered for regularisation and as such, she had approached this Court in WP.No.26371 of 2022 and this Court by order dated 30.06.2023 directed to consider the request made by the petitioner and to pass orders. However, the second respondent rejected the said request and also ordered removal of her service on the ground that the petitioner was not properly appointed as per the Rules.



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3. The learned counsel for the petitioner would submit that when the petitioner sought for regularisation of her service, she was removed from service itself, that too without conducting any enquiry and without any notice. It is clear violation of principles of natural justice.

4. On perusal of the counter filed by the second respondent and on hearing the submissions of the learned Government Advocate appearing for the respondents, revealed that the petitioner ought to have preferred revision as contemplated under Section 153 of Tamilnadu Cooperative Societies Act as against the order passed by the second respondent. Without exhausting the revisional remedy, the writ petition itself is not maintainable. That apart, the appointment of the petitioner itself is contrary to the Rules and she was appointed in backdoor entry. When her appointment itself is irregular, she cannot be allowed to continue in service.

5. The only point for consideration in this writ petition is that whether the writ petitioner was served with any notice or whether enquiry



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was conducted before passing the impugned order. On perusal of records, revealed that the petitioner was not issued any notice and there was no enquiry conducted by the second respondent before passing the order. Therefore, when there is violation of principles of natural justice, the writ petition can be entertained under Article 226 of the Constitution of India though there is revisional remedy available under Section 153 of Tamilnadu Cooperative Societies Act. On this sole ground alone, the impugned order cannot be sustained and the same is liable to be quashed.

6. Accordingly, the impugned order dated 15.09.2023 of the second respondent is quashed and the matter is remanded back to the second respondent. The second respondent is directed to issue notice to the petitioner and after conducting enquiry by giving opportunity of hearing to the petitioner, to pass orders on merits and in accordance with law within a period of two weeks from the date of receipt of copy of this order. It is made clear that quashing the order impugned in this writ petition does not amount to reinstatement of the petitioner into service.



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7. With the above direction, this writ petition stands allowed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

15.07.2024

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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