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W.P.No.29703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.No.29703 of 2023
and WMP No.29314 of 2023

M.Kathar

... Petitioner

-Vs-

1.The Joint Registrar of Co-operative Societies
Erode Region
Erode, Erode District.

2.The Deputy Registrar of Co-operative Societies
Gopichettipalayam Circle
Gopichettipalayam
Erode District.

3.The Administrator
A.A.300 Bargur Primary Agricultural
Co-operative Credit Society
Bargur Post-638 501
Anthiyur Taluk
Erode District.

... 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 2nd respondent in his proceedings Na.Ka.1221/2023 Tho.Vae.Sae, dated 06.04.2023 and quash the same and consequently directing the respondents to appoint the petitioner as compassionate appointment in the 3rd respondent society.



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For Petitioners : Mr.C.Prakasam

For Respondents : Mr.M.Murali
Government Advocate for R1 & R2

Mr.C.Jeyaprakash
Government Advocate
for R3

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 06.04.2023 and for a consequential direction to the respondents to appoint the petitioner on compassionate grounds in the 3rd respondent Society.

2.The case of the petitioner is that his father was working as a Salesman in the 3rd respondent Society from 14.10.1991. He continued in the 3rd respondent Society for nearly 29 years. His services were not regularized. A writ petition was filed before this Court in WP.No.3282 of 2021, by the father of the petitioner seeking for regularization of service. The above writ petition was disposed of by an order dated 17.03.2021 in terms of the order passed in WP.No.21440 of 2015 batch of cases.

3.The petitioner's father died on 09.09.2021 leaving behind his wife and two sons. The petitioner approached the 3rd respondent seeking for compassionate appointment. The 3rd respondent forwarded the proposal to the 2nd respondent. Since there was no progress, the petitioner filed WP.No.1534 of 2023, seeking for



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appropriate directions. The writ petition was disposed of by an order dated 20.01.2023, directing the respondents to deal with the application submitted by the petitioner for compassionate appointment.

4.The 2nd respondent through impugned proceedings dated 06.04.2023, rejected the claim made by the petitioner mainly on the ground that the deceased father of the petitioner was not regularized and that as per G.O.Ms.No.18 dated 23.01.2020, where the services of the employee is not regularized and by then he dies, the legal heirs will not be entitled for compassionate appointment. The said Order passed by the 2nd respondent has been put to challenge in this writ petition.

5.The 1st respondent has filed a counter affidavit. The 1st respondent has taken a stand that as per G.O.Ms.No.18 dated 23.01.2020 and the Circular No.7 of 2021 dated 09.09.2021, when the deceased employee was appointed on daily wages and the services were not regularized and before regularization the employee dies, there is no provision available for appointment on compassionate ground. Thus, the 1st respondent has supported the impugned Order passed by the 2nd respondent and has sought for the dismissal of this writ petition.

6.Heard Mr.C.Prakasam, learned counsel for the petitioner, Mr.M.Murali, learned Government Advocate for R1 & R2 and Mr.C.Jeyaprakash, learned Government Advocate for R3.



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7.The learned counsel appearing on behalf of the 3rd respondent Society submitted that pursuant to the Order passed in WP.No.2382 of 2021, the services of the petitioner's father was regularized on 09.09.2021. A copy of the proceedings was also placed before this Court.

8.The father of the petitioner had approached this Court seeking for regularization while filing WP.No.3282 of 2021. This Court took into consideration the judgment that was passed in a batch of cases in WP.No.2144 of of 2020 etc., dated 19.02.2021. In that judgment, directions were issued for regularization of service subject to fulfilling the criteria stipulated in Clause (a).

9.After the writ petition (WP.No.2382 of 2021) was disposed of by order dated 17.03.2021, the 3rd respondent Society has regularized the services of the father of the petitioner.

10.The father of the petitioner died on 09.09.2021. Thereafter, the petitioner submitted an application seeking for compassionate appointment.

11.The main ground that has been taken by the 1st and 2nd respondents is that the father of the petitioner was not regularized and by the time his regularization was considered, he died. Therefore, the petitioner is not entitled for being considering for compassionate appointment.



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12.The learned counsel for the petitioner has brought to the notice of this Court an order passed in WP.No.4571 of 2023, dated 08.06.2023. That was a case where an order was passed based on the order passed in the batch of writ petitions, directing regularization of service. There was violation on the part of the official respondents to carryout the directions. In the meantime, the employee died. This Court held that in such a case, it must be construed as a deemed regularization and for the failure on the part of the Department, the genuine claim made by the legal heir should not be rejected. Accordingly, this Court directed the application for compassionate appointment to be considered.

13.In the instant case, the petitioner is placed in a better footing. In this case, the services of the petitioner's father has been regularized by the 3rd respondent Society. Hence, the claim made by the petitioner for compassionate appointment cannot be rejected on the ground that the services of the father was not regularized. Hence, the petitioner will be entitled to be considered for compassionate appointment, if he is found otherwise eligible.

14.In the light of the above discussion, the impugned proceedings of the 2nd respondent dated 06.04.2023, is hereby quashed. The matter is remitted back to the file of the 2nd respondent and the 2nd respondent is directed to deal with the claim made by the petitioner for compassionate appointment and if the petitioner is



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found otherwise eligible, appropriate orders shall be passed within a period of **eight weeks** from the date of receipt of copy of the order. The 2nd respondent shall deal with the claim made by the petitioner on its own merits and in accordance with law and in the light of the relevant Government Orders.

15.In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

05.09.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes /No
KP



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To

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N.ANAND VENKATESH. J.,

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