



W.P.(MD)No.17197 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.17197 of 2022

and

W.M.P(MD)No.12568 of 2022

K.Prema

... Petitioner

vs.

- 1.The Registrar of Cooperative Societies,
Office of the Registrar of Cooperative Societies,
No.170, N.V.Natarajan Maaligai,
Periyar E.V.R. Road, Arumbakkam,
Chennai – 600 106.
- 2.The Deputy Registrar of Cooperative Societies,
(Public Distribution Scheme),
Office of the Deputy Registrar of Cooperative Societies,
Thoothukudi, Thoothukudi District.
- 3.The Managing Director,
O.831, Thoothukudi Agricultural Producers Cooperative
Societies Ltd, D.No.136, Old Polpettai,
Thoothukudi – 628 002,
Thoothukudi District.
- 4.The Sub Registrar of Cooperative Societies,
O.831, Thoothukudi Agricultural Producers Cooperative
Societies Ltd., D.No.136, Old Polpettai,
Thoothukudi – 628 002,
Thoothukudi District.

.... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the fourth respondent Nil Proceedings dated 24.08.2021 and the consequential order passed by the fourth respondent dated 30.03.2022 and quash the same and consequently direct the respondents to appoint the petitioner in any suitable post under the compassionate grounds within the time stipulated by this Hon'ble Court.

For Petitioner :Mr.G.Gangai Amaran
For Respondents :Mr.K.Selvaganesan,
Additional Government Pleader

ORDER

The petitioner has filed this writ petition challenging the impugned order passed by the fourth respondent, dated 24.08.2021 and the consequential order, dated 30.03.2022 and to direct the respondents to appoint the petitioner in any suitable post under compassionate ground.

2. The petitioner's father, who was working as a Helper in the respondent Society died on 03.05.2007 when he was in service. Immediately, the mother of the petitioner made an application for appointment on compassionate ground. Thereafter, after attaining



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majority, the petitioner made an application for compassionate appointment. However, the petitioner's application was rejected on the ground that the employment of the petitioner's father was not regularized and hence, the benefit cannot be extended to the petitioner.

3. The learned counsel for the petitioner drew the attention of this Court to the earlier decision rendered in ***S.Gandhimathi v. The Deputy Registrar of Cooperative Society and others*** reported in **2003 Writ L.R.479**, wherein this Court has held that by applying the Rule of Fiction, the deceased shall be deemed to have been regularised, in view of his long service. Relevant portion of the said judgment is extracted as under:

“14. By applying the rule of fiction the deceased is deemed to have been regularised. In terms of The Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, the deceased ceased to be a casual and deemed to be a regular employee with permanent status on his completing 480 days and on the date of death he was a permanent employee and therefore his son for whose benefit the writ petition has been filed is entitled to be considered for appointment on compassionate ground. The contention that the



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deceased always remained a casual labourer as no orders have been passed even though proposal was sent for regularisation cannot be sustained.”

4. In the instant case also, the petitioner claims that his father was appointed in the year 1995 and he died during the year 2007 after having put 13 years of service and hence, Rule of Fiction can be applied and it can be presumed that the petitioner's father would have been regularized.

5. Taking into account of the long services of the petitioner's father and by applying the Rule of Fiction, I feel that the fourth respondent be given suitable direction to reconsider the petitioner's application.

6. In view of the above stated reasons and also in the light of the judgment held in ***S.Gandhimathi's case(cited supra)***, the impugned orders passed by the fourth respondent dated 24.08.2021 and 30.03.2022, are set aside and the fourth respondent is directed to reconsider the



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application of the petitioner and pass orders afresh within a period of six weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

06.06.2024

NCC: Yes/No
Index : Yes/No
PM

To

1.The Registrar of Cooperative Societies,

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R.N.MANJULA, J.

PM



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