



W.A.(MD)No.1459 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**W.A.(MD)No.1459 of 2018
and
C.M.P.(MD)No.10269 of 2018**

K.Pandi

... Appellant / Petitioner

Vs.

1.The Joint Registrar of Co-Operative Societies,
Ramanathapuram Region,
Treasury Building, Collectorate,
Ramanathapuram.

2.The Special Officer,
Paramakudi, Co-Operative Urban Bank Ltd,
2/378, M.S.Agraharam, Paramakudi,
Ramanathapuram District.

3.S.Pandi

4.P.Velusamy

... Respondents / Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to set aside the order passed in W.P.(MD)No.3561 of 2013 dated 30.11.2017 on the file of this Court.



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For Appellant : Mr.G.Karthik

For Respondents : Mr.K.Selvaganesan,
Addl. Government Pleader for R1.
Mr.S.Seenivasan for R2
Mr.M.Ganesan for R3 & R4.

JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.Mr.K.Pandi joined Paramakudi Co-operative Urban Bank Limited, Paramakudi as Junior Clerk in the year 1994. He was later promoted to the post of Assistant. Vacancy arose in the post of Assistant Manager in the year 2011. 05.12.2011 was the crucial date. On the said date, a criminal case was pending against the appellant herein in C.C.No.113 of 2010 on the file of the Judicial Magistrate No.I, Ramanathapuram. He was therefore overlooked and his juniors namely, S.Pandi and Velusamy / respondents 3 and 4 were promoted as Assistant Managers. Aggrieved by the same, K.Pandi filed revision under section



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153 of the Tamil Nadu Cooperative Societies Act, 1983. The revisional authority set aside the order of promotion granted in favour of S.Pandi and Velusamy but declined to grant any relief in favour K.Pandi. Aggrieved by the same, K.Pandi filed W.P.(MD)No.3561 of 2013. The promoted persons filed W.P.(MD)Nos.9806 and 9807 of 2012. All the three writ petitions were taken up together and reserved for orders on 07.02.2017. Vide order dated 30.11.2017, W.P.(MD)No.3561 of 2013 was dismissed whereas, W.P.(MD)Nos.9806 and 9807 of 2012 were allowed. Challenging the said order, this writ appeal came to be filed.

3.Heard the learned counsel for the appellant, the learned Additional Government Pleader for the first respondent, the learned standing counsel for the second respondent and the learned counsel for the respondents 3 and 4.

4.It is beyond dispute that the appellant herein was facing prosecution in C.C.No.113 of 2010 on the file of the Judicial Magistrate No.I, Ramanathapuram. The crucial date for promotion was 05.12.2011. It is well settled that a person against whom criminal case is pending



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cannot be considered for promotion. Therefore, the learned Single Judge rightly sustained the action of the management and dismissed the appellant's writ petition.

5. There is one fact that was in favour of the appellant which was not taken note of by the learned Single Judge. On 29.11.2017, the quash petition filed by the appellant in CrI.O.P.(MD)No.11129 of 2011 was allowed and the prosecution launched against him was quashed. Thus, on 30.11.2017, the appellant's record remained clean. Unfortunately, this aspect was not brought to the notice of the learned Single Judge. The orders were reserved on 07.02.2017 and therefore, there was no occasion for the appellant to bring the same to knowledge of the learned Single Judge.

6. In these circumstances, even while sustaining the action of the management as well as the order dated, 30.07.2017 passed by the learned Single Judge dismissing W.P.(MD)No.3561 of 2013, we dispose of the writ appeal by permitting the appellant to submit a representation to the management and directing the management to consider the same on



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merits and in accordance with law by taking into account the fact that the criminal case against him stood quashed on 29.11.2017 itself. It is stated that the appellant retired on 30.06.2019. If any vacancy had arisen in the post of Assistant Manager during this period, it is only just and proper that the management notionally appoints the appellant to the said post so that the appellant's terminal benefits can be appropriately re-worked. We make it clear that this situation would arise only if there was a vacancy in the post of Assistant Manager between 30.11.2017 and the date of his retirement. This reworking is only for the purpose of computing his terminal benefits. The question of paying differential salary arrears will not arise.

7.This writ appeal is disposed of with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (P.V.M. J.)
28.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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