



W.P.(MD).No.22563 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.22563 of 2021

Thiruthuvaraj

... Petitioner

Vs.

1.The Registrar,
Office of the Registrar of Co-operative Societies,
N.V.N.Maalgai,
170, E.V.R.Highway,
Kilpauk,
Chennai-600 010.

2.The Chairman/Joint Registrar,
Office of the Joint Registrar of Co-operative Societies,
No.1, Meignana Street,
Palayamkottai-627 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.38698/2021/SaNa1(3), dated 15.09.2021 and quash the same as illegal and consequent direction may be issued to the respondents to prepare waiting list and to fill up the notified unfilled posts by appointing the petitioner.

For Petitioner : Mr.S.Packiaraj



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W.P.(MD).No.22563 of 2021

For Respondents : Mr.S.Kameswaran
Government Advocate

ORDER

The present writ petition has been filed to call for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka. 38698/2021/SaNa1(3), dated 15.09.2021 and quash the same as illegal and consequent direction may be issued to the respondents to prepare waiting list and to fill up the notified unfilled posts by appointing the petitioner.

2. The 2nd respondent issued a recruitment notice in Advertisement No. 2/2020, dated 10.03.2020 for 45 posts of Assistant and Clerks. Pursuant to the same, the petitioner made an application, following which, he was permitted to attend the written examination and was provisionally selected. Thereafter, he was issued with admission letter for oral test which was conducted on 21.01.2021 and attended the same. He had scored 48.93 marks out of 85. The mark obtained by the last selected candidate in the category of Backward Class was 50.50. However, as mandated in Rule 151 (5) (c) of the Tamil Nadu Co-operative Societies Rules, 1988, the respondents ought to have drawn a waiting



W.P.(MD).No.22563 of 2021

list for accommodating the candidates in case of failure of selected candidates to join the selected post. Since the waiting list was not drawn, the petitioner made a representation to the 2nd respondent for drawing waiting list on 06.03.2011. As the same was not considered, the petitioner has filed a writ petition in W.P(MD)No.5783 of 2021 and this Court without going into the merits of the case, directed the 2nd respondent to consider the petitioner's representation within a period of eight weeks. Following which, the impugned order came to be passed on 15.09.2021 by the 1st respondent. Challenging the same, this writ petition came to be filed.

3. The learned counsel for the petitioner submitted that pursuant to the notification in Advertisement No.2/2020 for the vacancies of 45 posts, selection was made under communal roster on the basis of the marks scored by the various candidates. Since the waiting list has never been drawn, the question of considering the petitioner's representation will not arise. When the relevant rule in Rule 151 (5) (c) of the Tamil Nadu Co-operative Societies Rules, 1988 mandates for preparation of waiting list, the respondents without doing the said exercise, had concluded the selection process. Had a waiting list been arrived at, automatically the petitioner would have been accommodated



W.P.(MD).No.22563 of 2021

because the petitioner is informed by the related sources that even more than 20 vacancies remain vacant. Accordingly, he pressed for allowing the writ petition.

4. Per contra, the learned Government Advocate submitted that the entire selection process was over and out of the total 45 vacancies in the category of BC(Gen), six vacancies were earmarked for the said category. However, of the selected candidates, only two persons have joined service. Since the waiting list was not drawn, the respondents could not consider the petitioner's case. The reason behind is that yet another recruitment notification bearing Notification No.1/2023 came to be issued by the District Recruitment Board of Co-operative Societies, Tirunelveli District on 10.11.2023 for a total number of 65 posts. In response to the same, the petitioner had applied for participating in the said selection process and was selected to the post of Assistant. However, he resigned the job by submitting a resignation letter on 16.03.2024 on his own volition. Under such circumstances, he is not entitled to seek a job under the previous recruitment notification of the District Recruitment Board of Co-operative Societies, Tirunelveli District.



W.P.(MD).No.22563 of 2021

WEB COPY

5. Heard the learned counsels on either side and perused the materials available on record.

6. No doubt the respondents have violated the mandate of Rule 151 (5) (c) of the Tamil Nadu Co-operative Societies Rules, 1988 by not drawing a waiting list from among the candidates, who participated in the recruitment, dated 10.03.2020. However, the rule mandates that the waiting list should be arrived at for every selection process and should be maintained for a period of six months and the same is mandatory. Having not done the same despite availability of vacancies, without filling up the vacancies, the respondents proceeded to issue a fresh notification for recruiting 65 posts by Recruitment Notice No.1/2023, dated 10.11.2023. Had the petitioner challenged the said notification claiming that his chance had been defeated by the respondents by not drawing a waiting list in the previous selection, he would have got a scope for getting through this case. Having not done so, he participated in the second recruitment notification, dated 10.11.2023 and got selected and was appointed to the post of Assistant and later, resigned on his own volition. Under such circumstances, nothing survives giving scope for the petitioner to press this writ petition.



W.P.(MD).No.22563 of 2021

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7. Hence, this Writ Petition stands dismissed. No costs.

26.07.2024

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

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W.P.(MD).No.22563 of 2021

L.VICTORIA GOWRI, J.

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W.P.(MD).No.22563 of 2021

26.07.2024