



W.P.(MD).No.30286 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HONOURABLE MRS.JUSTICE R.N.MANJULA

W.P.(MD).No.30286 of 2023

M.Senthil

... Petitioner

Vs

1. The Joint Registrar of Co Operative Societies,
Madurai District Co-Operative Society Registrar Office,
Madurai.
2. The Deputy Registrar of Co-Operative Societies,
Madurai District Co-Operative Society Registrar Office,
Madurai.
3. The Secretary,
A 2934, Thiruvathavur Primary Agricultural
Co-operative Credit Society,
Thiruvathavur, Madurai District.

... 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 relating to the impugned order passed by the 3rd respondent in his proceedings in letter, dated 04.12.2021 and quash the same as illegal and consequently direct the respondents to appoint the petitioner in any of the post in their office on compassionate ground, within a stipulated time frame fixed by this Court.



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For Petitioner : Mr. M.Suresh

For Respondents : Mr.S.Kameshwaran (R1-R3)
Government Advocate

ORDER

The petitioner has filed this writ petition challenging the impugned order passed by the 3rd respondent in his letter, dated 04.12.2021 and consequently direct the respondents to appoint the petitioner in any of the post in their office on compassionate ground.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Perused the materials available on record.

3.The petitioner is the son of deceased Manickam, who was working as a Night Watchman in the third respondent office. From the impugned order, it is learnt that the petitioner's application seeking appointment on compassionate grounds was rejected by the third respondent on the ground that his father's service was not regularized till his lifetime.



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4.The learned Government Advocate appearing for the respondents submitted that as per the Circular of Registrar of Co-operative Societies, dated 09.09.2021, the scheme of compassionate ground employment cannot be extended to those legal heirs, whose service was not regularized.

“9. With regard to giving compassionate ground appointment to the legal heir of a such employees whose services are not regularized, Cooperative Societies have to strictly follow the rules inforce as applicable to compassionate ground appointment in Government service. As per the Government Orders issued in G.O.(Ms)No. 18 Labour and Employment (Q1) Department, dated 23.01.2020 persons those who are under temporary appointments, consolidated pay, daily wages contract appointments and whose services are not regularized are not eligible for consideration under compassionate ground appointment. Therefore, in order to give compassionate ground appointment to legal heir of employees of Cooperative Societies whose services are not regularized, exemption from the above said G.O. to the extent necessary has to be obtained from the Government. Necessary instructions in this regard will be issued after getting necessary exemption from the Government, which may take some more time.”



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5.In this regard, the learned counsel for the petitioner submitted that in the service register of his father would show that from 01.04.1990 his services are considered as the permanent category. However, the service register of the petitioner's father does not have any mention about the proceedings as to how his father was made permanent on 01.04.1990. No doubt, the petitioner's father has rendered service in the third respondent office from 16.02.1984 to till his death and the said fact was not denied by the respondents as well.

6.The learned counsel for the petitioner claimed that if the petitioner's father was alive, he would have got regularization order, even if the entry in his service register is not accepted. Reliance was placed on the decision of the Division Bench of this Court in W.P(MD) No.16364, dated 08.08.2023.

“5.However, the learned counsel appearing for the petitioner relied upon the Judgment passed by the Hon'ble Division Bench of this Court in W.A(MD)No.558 of 2009, dated 09.11.2009 (The Special Officer Vs. The Deputy Registrar and others), in a similar case, wherein this Court gave a favourable verdict to the petitioner. The relevant portion of which is extracted as follows:-



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“6.As far as the first contention of the learned counsel for the appellant is concerned, it is true that there is no scheme in the appellant society for providing compassionate appointments. Nevertheless, it is an admitted fact that such appointments are being made in deserving cases. Therefore, merely because there is no scheme available, the request for compassionate appointment cannot be denied. As far as the impugned order in the writ petition rejecting the request for compassionate appointment is concerned, the Society has rejected the request wholly on the ground that the deceased husband of the first respondent was not regularized. In our opinion, having regard to the fact that the deceased employee had put in 15 years of service and in the absence of any scheme stipulating conditions as to consideration of compassionate appointment to the dependants of a regular employee, whether such employee has been made permanent or yet to be made permanent would be highly too technical to reject the application for appointment on compassionate ground. That apart, factually the name of the deceased employee was recommended by the Special Officer of the society in his proceedings dated 29.03.1996 for regularization along with similarly placed persons. However, before such recommendation was given effect to, unfortunately, the employee died on 15.11.1996. From the records it is also seen that within a period of 14 days, ie., on 29.11.1996, the all other



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persons numbering 14 and whose names were also recommended along with the deceased employee were regularized. The deceased employee could not be regularized as by that time he was not alive. Had been alive, he would have also also been regularized in service. In view of that, the argument of the learned counsel for the appellant that the deceased was not regularized and therefore, the first respondent cannot seek for compassionate appointment cannot be accepted.”

6.Following the same, the learned Single Judge of this Court in W.P(MD)No.1524 of 2020, dated 04.02.2020 (P.Pandeeswaran Vs. The Registrar of Co-operative Society and others) has permitted compassionate appointment for the legal heirs of the temporary employee. The relevant portion of which is extracted as follows:-

“7.It is also not disputed by the respondents that the services of the similarly placed employees, who had rendered services along with the petitioner's father, have now been regularized. This goes without saying that, had the petitioner's father been alive during that relevant point of time when the services of the similarly placed employees were regularized, the services of the petitioner's father also would have been regularized. The unfortunate and untimely death of the petitioner's father during his services, cannot now be cited as a reason that his services were not regularized and therefore, deprived the



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petitioner to the benefit of on compassionate appointment.

7.In another case in M.Venkatesh Vs. the Principal Secretary to Government reported in (2021) 2 MLJ 282, the Hon'ble Division Bench of this Court, in a similar case, has held as follows:-

“7. The issue, similar to the present one, has been decided by this Court in various cases and this Court has held that if an employee was qualified for regularization as on the date of his death, then the claim of his legal heirs cannot be rejected. In the present case also, the appellant's father was qualified for regularization as on the date of his death since he had worked for more than 28 years. Therefore, the claim of the appellant cannot be rejected.”

8.This Court is fully in consonance with all the verdicts passed by this Court in the order/Judgment mentioned supra. This is a case where the petitioner's father, who was appointed as attender at the first instance, from which post, he was promoted as a Clerk, who remained in the service of the second respondent Society from 19.02.1988 to 17.06.2021 without regularization ie., for a period of 33 years.

9.This Court in a batch of Writ Petitions in W.P.Nos. 6425 of 2021 etc batch, dated 12.03.2021 (G.Thamaraiselvan Vs. The Registrar of Co-operative Societies (Housing) and others), has given a direction to the Government to extend the benefit of regularization to all the persons who are



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similarly placed even though they have not knocked at the doors of the Court.

7. Admittedly, the petitioner's father was employed in the respondent Society for more than 30 years and had he been alive, he would have either got an order of regularization or at least could have explained what is the meaning of the entry in his Service Register as permanent. The service register is maintained by the respondents. The respondents also did not give any clarification as to why the petitioner's father was not made permanent or whether any order of regularization has been issued.

8. In view of the peculiar circumstances involved in this case and also considering the earlier judicial pronouncement as referred above, I feel that the petitioner's application can be considered, on other grounds, which would fall within the compassionate appointment scheme.

9. In view of the above stated reasons, the impugned order, dated 04.12.2021 is hereby set aside and I hereby direct the respondents to consider the petitioner as an applicant, who would fall under the compassionate grounds scheme and dispose of his application on its own merits and in accordance with



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law and pass appropriate orders within a period of six (6) weeks from the date of receipt of copy of this order.

10. Accordingly, this writ petition stands allowed. There shall be no order as to costs.

04.04.2024

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

To

1. The Joint Registrar of Co Operative Societies,
Madurai District Co-Operative Society Registrar Office,
Madurai.
2. The Deputy Registrar of Co-Operative Societies,
Madurai District Co-Operative Society Registrar Office,
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3. The Secretary,
A 2934, Thiruvathavur Primary Agricultural
Co-operative Credit Society,
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R.N.MANJULA, J.

PNM

ORDER IN
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