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W.P.No.953 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.953 of 2023
and WMP.Nos.930 & 931 of 2023

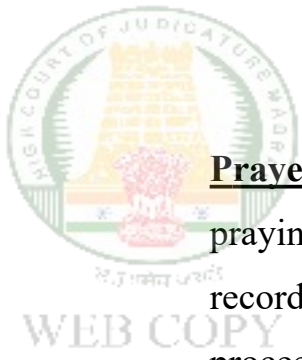
R.Balakrishnan

... Petitioner

Vs

- 1.The Registrar of Cooperative Societies
Kilpauk, Chennai – 600 010.
- 2.The Chairman
District Recruitment Bureau /
Joint Registrar of Cooperative Societies
Nagapattinam Region
Nagapattinam, Nagapattinam District.
- 3.The Joint Registrar of Cooperative Societies
Nagapattinam Region
Nagapattinam, Nagapattinam District.
- 4.The Deputy Registrar of Cooperative Societies
Nagapattinam Circle
Nagapattinam, Nagapattinam District.
- 5.The President
Z-87, Melappoodhanoor Primary Agricultural
Cooperative Credit Society
Melappoodhanoor
Nagapattinam Taluk & District.

... Respondents



W.P.No.953 of 2018

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.No.427/2017/Po.Vi.Thi(2), dated 05.10.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service as Salesman in the 5th respondent Society along with backwages, attendant benefits and other monetary benefits to the petitioner and pass orders.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.E.P.Senniyangiri
Government Advocate for R1 to R5

ORDER

The writ petition has been filed seeking to quash the impugned order passed by the second respondent dated 05.10.2018 and to direct the respondents to reinstate the petitioner into service as Salesman in the 5th respondent-Society along with backages, attendant benefits and other monetary benefits.

2. The case of the petitioner is that he was appointed in the 5th respondent Society as Salesman on 28.03.2013, pursuant to the interview conducted by the second respondent. He worked in the 5th respondent Society till 30.10.2017. On 01.11.2017, without conducting any enquiry, the petitioner was terminated from service by the proceedings of the 5th respondent, alleging



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that no appointment order was issued by the District Recruitment Bureau. He, thereafter, approached this Court in W.P.No.28625 of 2017. Based on the interim orders of this Court dated 09.11.2017, the petitioner was allowed to join duty on 12.11.2017. Subsequently, W.P.No.28625 of 2017 was disposed of by orders of this Court dated 07.06.2018, in and by which, it directed the respondents to issue show cause notice to the petitioner and to call for explanation from the petitioner with regard to his appointment order.

3. Pursuant to the directions of this Court, notice was sent to the petitioner on 18.07.2018. On 04.08.2018, the petitioner had submitted his explanation and also produced the interview card and appointment order issued by the second respondent. However, vide proceedings of the second respondent dated 05.10.2018, the petitioner was terminated from service stating that the 5th respondent-Society itself do not find a place in 2012-2013 Recruitment, as there existed no vacancy for the post of Salesman in the said Society, then. In the said circumstances, alleging that the appointment order produced by the petitioner had been obtained in an illegal manner and therefore, he could not continue to serve in the 5th respondent-Society any more, he was terminated from service forthwith.



4. Aggrieved by the impugned order, the petitioner is before this Court in the present writ petition.

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5.1 The counter affidavit has been filed by the respondents 2,3 & 4. The respondents would submit that in the year 2013, a similarly placed person has approached this Court in W.P.No.25528 of 2013 seeking to quash the order terminating his services in Thiruvallangadu Primary Agricultural Cooperative Credit Society. This Court had obtained a report from the Registrar of Co-operative Societies, in which, the said authority has stated about the ingenuity on the part of the petitioner therein. In addition, it has also stated that an appropriate action may be contemplated to terminate the services of other three individuals namely Thiru.R.Balakrishnan (MelaBoothonur) (petitioner herein), Tmt.D.Chitra (Mela Boothonur) and Thiru.K.Ravichandran (Theralunthur), as their names do not figure in the DRB selection list and also to initiate disciplinary action against the persons responsible for issuing the said appointment orders. Recording the above, this Court by order dated 11.04.2017, dismissed the above W.P.No.25528 of 2013. Pursuant to the orders of the Court, the second respondent vide its proceedings dated 01.11.2017, had terminated the services of the petitioner herein. This proceedings was challenged by the petitioner in W.P.28625 of 2017. This writ petition was



disposed of by this Court with a direction to the respondents to issue show cause notice to the petitioner and on receipt of explanation from the petitioner, final orders shall be passed.

5.2 In compliance of the directions of this Court, the second respondent issued show cause notice to the petitioner on 07.06.2018 to appear for hearing on 26.09.2018. On 26.09.2018, the petitioner had deposed that he had obtained the selection order from Thiru.N.Chandrasekaran, the Joint Registrar / Chairman DRB, Nagapattinam on 05.03.2013. It is pertinent to mention here that Thiru.N.Chandrasekaran, the then Chairman of DRB, who had attained superannuation on 28.02.2013, had issued ante-dated selection orders. The respondents would further submit that the petitioner in his written defence dated 04.08.2018, has stated that he had received his appointment order from the Special Officer, Mela Boothanur Society, however, during his deposition on 26.09.2018, had deposed that he had obtained the order in person and that he does not know the details of the person who had issued the appointment order. Therefore, the statements made by the petitioner during his deposition and the one in his written defence are contradictory. Thus, the deposition of the petitioner, and written defence deserve no merit for consideration.



5.3 The contention of the petitioner that he had received the appointment order through the Office of the second respondent and was appointed as Salesman on 28.03.2012, was vehemently opposed by the respondents, on the ground that the appointment orders to the selected candidates were issued by the second respondent through the Circle Deputy Registrar of Co-operative Societies concerned, and that no order was issued directly to any of the incumbents by the second respondent, as alleged by the petitioner. Therefore, after analysing the aforesaid circumstances and on verifying the material records, the second respondent by his proceedings dated 05.10.2018, had dismissed the petitioner from the services. Therefore, the respondents would contend that since the allotment order itself is *void abinitio*, the subsequent appointment is also bad in eye of law and not sustainable. Since the petitioner has not made out a *prima facie* case, he is not entitled to any relief as claimed by him. Hence, they sought for the dismissal of the writ petition.

6. Heard the learned counsel on either side and also perused the materials placed before this Court.

7. The writ petition is filed challenging the order dated 05.08.2018 passed by the second respondent, in and by which, the petitioner has been removed



from service, on the ground that he had entered services by adopting fraudulent means. From a perusal of the impugned order, it is seen that as against 104 vacancies existed in the Public Distribution System of Nagapattinam District, the then Joint Registrar / District Recruitment Bureau had appointed 107 persons. Therefore, the three appointees including the petitioner herein were in excess and have been fraudulently appointed in different Co-operative Societies by the then Joint Registrar. The 104 vacancies were filled up in February 2013, and all the recruited candidates have joined the services.

8. Pursuant to the orders of this Court in W.P.No.28625 of 2017, the second respondent has conducted an enquiry, in which, the petitioner has also participated. However, the petitioner was not able to clarify as to how he had been appointed over and above the total number of vacancies. Further, the disciplinary proceedings could not be initiated against the then Joint Registrar, as he had retired. Except stating that the petitioner had been working in the 5th respondent Society for over five years, the petitioner has not been able to justify his appointment before this Court.

9. In a writ petition filed by a similarly placed person in W.P.No.25528 of 2013, this Court had directed the Registrar of Co-operative Societies, Tamil



Nadu, to submit a report before this Court. This Court in its order, had recorded the relevant portion of the enquiry report of the Registrar of Co-operative Societies, wherein it has stated that of the selected list of 104 candidates, the name of the petitioner therein was not found. The said report also records that, an appropriate action is contemplated to terminate the services of Tmt.D.Chitra (MelaBoothonur) Thiru.R.Balakrishnan (MelaBoothonur) and Thiru.K.Ravichandran (Theralunthur), whose names do not figure in the DRB selection list and to initiate disciplinary action against the persons responsible for issuing appointment orders to the above persons. Recording, the same, the writ petition in W.P.No.25528 of 2013 was dismissed. It is relevant to extract the relevant portions of W.P.No.25528 of 2013 :

“ 5.

Further it is submitted for the reasons narrated in para 5.3(i), appropriate action is contemplated to terminate the services of Tmt.D.Chitra (MelaBoothanur), Thiru.R.Balakrishnan (MelaBoothonur) and Thiru K.Ravichandran (Theralunthur), whose names did not figure in the DRB selection list and also to initiate severe disciplinary action against the persons who are responsible for issuing appointment orders to these persons.

6.According to the report of the Registrar of Co-operative Societies, the selection proceedings of the petitioner is not genuine and appropriate action is contemplated to terminate the services of



other three persons, whose names did not figure in the DRB selection list, and also to initiate severe disciplinary action against the persons. Nature of report itself prima facie clearly indicates that the selection proceedings of the petitioner as salesman in the Cooperative Department is not genuine and therefore, the Registrar has to initiate action against those persons, who are responsible for issuing illegal selection list as well as appointment orders in the Department. It is seen from the report that in the light of the illegal selection and appointment orders, three persons are still working in the Department. The responsible officer in-charge for issuing such selection and illegal appointment orders is being retired. Therefore, the relief as prayed in the Writ Petition cannot be granted.

7.

8. *The Writ Petition is dismissed with the above direction. No costs."*

10. Based on the directions of this Court, the fourth respondent herein has passed the orders terminating the services of the petitioner. The petitioner had challenged the said order in W.P.No.28625 of 2017. Since the respondent had passed the order without issuing a show cause notice and without giving an opportunity to the petitioner to submit his objections, this Court had allowed the said writ petition and directed to issue a fresh show cause notice to the petitioner within a stipulated time. Pursuant to the orders of this Court, the



enquiry was held. It also appears that a Fact Finding Committee had gone into the recruitment process for the year 2012 -2013, the Minutes of the Meeting, the Appointment Orders, Registers and other connected files, and come to the conclusion that the fifth respondent-society had not given any request to the District Recruitment Bureau, Nagapattinam, for appointment to the posts of Salesman. The petitioner had appeared for interview on 20.12.2012. But he was not selected and his name was not included in the list of 104 selected candidates. It appears that the then Chairman of District Recruitment Bureau had manipulated and got the appointment order from the then Special Officer of the fifth respondent, and the petitioner had joined the services on 28.03.2013. The said Chairman had attained superannuation on 28.02.2013, but had issued ante-dated selection order. Therefore, when the appointment of the petitioner itself is fraudulent, the petitioner cannot claim any advantage on the ground that he had been working in the fifth respondent-society for over five years.

11. In the judgment in ***Devendra Kumar Vs. State of Uttaranchal and Others*** reported in ***(2013) 9 SCC 363***, relied upon by the counsel for the respondent, the Hon'ble Supreme Court has observed as follows :

“13. It is a settled proposition of law that where an applicant gets



an office by misrepresenting the facts or playing fraud upon the competent authority, such an order cannot be sustained in the eye of the law.”

The Hon'ble Supreme Court was considering a case where an individual involved in a criminal case, had got appointment order by suppressing the said fact. He was later removed from services and the same was challenged. The Hon'ble Supreme Court has observed that obtaining appointment by misrepresentation would eventually make the individual's service liable for termination. The Hon'ble Supreme Court had considered the various earlier judgments in this regard and has held as follows :

25. “A person having done wrong cannot take advantage of his own wrong and plead bar of any law to frustrate the lawful trial by a competent court. In such a case the legal maxim *nullus commodum capere potest de injuria sua propria* applies. The persons violating the law cannot be permitted to urge that their offence cannot be subjected to inquiry, trial or investigation. (Vide **Union of India v. Major General Madan Lal Yadav [(1996) 4 SCC 127 : 1996 SCC (Cri) 592 : AIR 1996 SC 1340]** and **Lily Thomas v. Union of India [(2000) 6 SCC 224 : 2000 SCC (Cri) 1056]**). Nor can a person claim any right arising out of his own wrongdoing (*jus ex injuria non oritur*).

26. The courts below have recorded a finding of fact that the appellant suppressed material information sought by the employer as to whether he had ever been involved in a criminal case. Suppression of material information sought by the employer or furnishing false information itself amounts to mortal turpitude and is separate and distinct from the involvement in a criminal case. In view of the above,



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the appeal is devoid of any merit and is accordingly dismissed.”

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12. The above judgment squarely applies to the instant case. I see no merit in this writ petition and the writ petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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(1/2)

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order
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To:

- 1.The Registrar of Cooperative Societies
Kilpauk, Chennai – 600 010.
- 2.The Chairman
District Recruitment Bureau /
Joint Registrar of Cooperative Societies
Nagapattinam Region
Nagapattinam, Nagapattinam District.
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P.T. ASHA, J,

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