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W.P.No.12912 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12912 of 2009

G.Dhanasekaran

... Petitioner

Vs.

1. The Registrar of Co-operative Societies (Housing),
Chennai – 600 020.

2. The Deputy Registrar of Co-operative Societies (Housing), Salem.

3. The Special Officer,
S0938, Gandhi Nagar Housing Co-operative Society,
Gandhi Nagar, Athur, Salem District.

... Respondents

4. D.Rajeshkanna (R4 impleaded vide order dated 21.02.2024)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders in (1) Na.Ka.No.3092/2008/B1 dated 17.04.2008 of the first Respondent and (2) Na.Ka.No.4625/2007 dated 12.10.2007 of the second Respondent, quash the same and issue consequential directions to the Respondents 1 and 2 to grant pay fixation, seniority and promotions as Assistant and Manager with retrospective effect from the date of promotion of his juniors.

For Petitioner	: Mr.M.Ravi
For R1, R2 & R3	: Mr.M.Muthusamy,
	Government Advocate
For R4	: Mr.K.Premkumar



ORDER

WEB COPY The petitioner herein who was appointed as 'Junior Assistant' in the Respondent No.3/ Society through proceedings dated 07.08.1996, made a claim for promotion to the post of 'Manager' on the ground that the petitioner herein was senior to the Respondent No.4, having been appointed as 'Junior Clerk' ahead of the petitioner. Simultaneously, he also made a complaint against the undue advantage alleged to have been shown in favour of one Thiru.N.Jothiprasad, who was working as 'Collection Agent' in the Respondent No.3/ Society. The said claim of the petitioner was considered by the Respondent No.2 in terms of the order passed by this court in W.P.No.25469 of 2007 dated 25.07.2007, whereby this court directed the respondents to consider the representation dated 19.06.2007 said to have been submitted by the petitioner and the same was rejected through proceedings dated 12.10.2007 and 17.04.2008 issued by the Respondent No.2. It is aggrieved by the said proceedings, the petitioner approached this court by filing the present writ petition.

2. The claim of the petitioner against Thiru.N.Jothiprasad on the ground that the petitioner is senior to the said person is concerned, the same is liable



to be rejected in the light of the admitted fact position that the said Thiru.N.Jothiprasad has been working as 'Collection Agent' in the Respondent No.3/ Society from 27.07.1991 and inspite of termination of his services, the said Thiru.N.Jothiprasad was ordered to be reinstated into service and to regularize his services from the date of initial appointment by virtue of the orders passed in ID.Nos.63 and 170 of 1997 on the file of the court of the Labour Court, Salem. Accordingly, the said Thiru.N.Jothiprasad was reinstated into service and his services were regularized with effect from 20.03.1996 i.e., the date anterior to the appointment of the petitioner as 'Junior Assistant' in the Respondent No.3/ Society. The said orders of regularization are not under challenge in the present writ petition nor the said Thiru.N.Jothiprasad is impleaded as party respondent to this writ petition.

3. In the absence of any challenge to the date of regularization of the services of the said Thiru.N.Jothiprasad from the date anterior to the date of appointment of the petitioner as 'Junior Clerk', the petitioner cannot make any claim stating that he is senior to the said Thiru.N.Jothiprasad. Therefore, any claim made by the petitioner on the ground that he is senior to the said Thiru.N.Jothiprasad does not stand for legal scrutiny.



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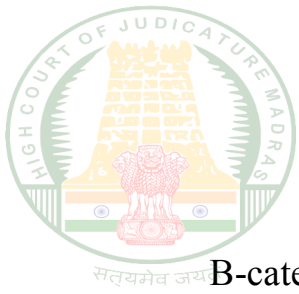
4. The further claim of the petitioner, as contended by Mr.M.Ravi, learned counsel for the petitioner is that the petitioner was appointed as 'Junior Clerk' in the year 1996 and whereas the Respondent No.4 was appointed as 'Cashier' with effect from 08.08.1996 and that the post of 'Junior Clerk' as well as 'Cashier' were sanctioned for the Respondent No.3/ Society through the very same proceedings bearing Letter No.4683/96/B1 dated 26.04.1996 with the same scale of pay and therefore, the petitioner as well as the Respondent No.4 are to be treated as equals and the petitioner being senior to the Respondent No.4, he is entitled for consideration and appointment to the post of 'Manager' in the Respondent No.3/ Society. But according to him, the respondents have ignored the claim of the petitioner and appointed the Respondent No.4 as 'Manager' in the Respondent No.3/ Society.

5. Thus, it is evident that the claim of the petitioner is basing upon the fact that the petitioner as well as the Respondent No.4 on their initial appointment as 'Junior Clerk' and 'Cashier' respectively were fixed in the same scale of pay and therefore, both the posts are required to be treated as equal in cadre and are eligible for consideration for promotion to the post of



'Manager' in the Respondent No.3/ Society. The class and cadre of a particular post can never be decided basing upon the pay scale attached to the post. All such aspects are to be required to be decided basing upon relevant rules and the cadre strength fixed for the Organization/ Society in question, and the hierarchy in the society.

6. As seen from the impugned proceedings, it was the specific case of the respondents that the cadre strength of the Respondent No.3 was fixed in terms of the proceedings bearing RC.No.5465/91/C4 dated 15.05.1991 issued by the Respondent No.1 and in terms of the same, as stated in the impugned proceedings, the post of 'Cashier' is at Sl.No.3 and whereas the 'Junior Clerk' is at Sl.No.4 and the persons holding the post of 'Junior Clerk' are eligible for promotion to the post of 'Supervisor/ Clerk/ Cashier' and the persons holding the post of 'Supervisor/ Clerk/ Cashier' are eligible for promotion to the post of next higher cadre viz., 'Manager/ Accountant/ Superintendent'. In the light of the above stand taken by the respondents in the impugned proceedings, this court directed for production of a copy of the proceedings dated 15.05.1991 and accordingly, Mr.Muthusamy, learned Government Advocate produced a copy of the proceedings dated 15.05.1991.



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7. It is an admitted fact that the Respondent No.3/ Society is a B-category Society and in terms of the cadre strength fixed under the said proceedings, the 'Junior Clerk' is in the fourth category and whereas the 'Cashier' is at Category No.3. This is an undisputed fact. Therefore, once the cadre strength is fixed by duly fixing the categories, the status of the employees of the Respondent No.3/ Society has to be decided basing upon the categories and the post in which they have been appointed.

8. In the instant case, admittedly the petitioner was appointed as 'Junior Assistant' and whereas the Respondent No.4 was appointed as 'Cashier'. As already noted above, 'Cashier' is in Category-III and 'Junior Clerk' is Category-IV. Therefore, the question of petitioner comparing himself with the Respondent No.4 for whatsoever purpose is totally baseless and such a situation does not arise. The further contention of Mr.M.Ravi, learned counsel appearing for the petitioner stating that the Respondent No.4, for want of possessing requisite qualifications to hold the post of 'Cashier', the Respondent No.4 is to be treated as equivalent to the petitioner, is also liable to be rejected as there is no basis for such contention. Whether the Respondent No.4 was appointed as 'Cashier' with all requisite qualifications or not is not a matter for consideration in the present writ petition. The



appointment of the Respondent No.4 to the post of 'Cashier' is not under challenge. Admittedly, the post of 'Junior Clerk' and 'Cashier' in which the petitioner and Respondent No.4 were appointed were sanctioned by the Respondent No.2 through the very same proceedings dated 26.04.1996 and both of them were appointed in the respective posts and, their appointments were not under challenge.

9. In the light of the above, this court does not see any merit in the claim being made in the present writ petition either for promotion to the post of 'Manager' or to claim pay parity or fixation of his pay on par with one Thiru.N.Jothiprasad or the Respondent No.4.

10. In the light of the above, this court does not see any error or illegality in the order passed by the Respondent No.2. Accordingly, the writ petition is dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

24.01.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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MUMMINENI SUDHEER KUMAR, J.

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To

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