

W.P.NO.20055 OF 2024

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 06.03.2025**

**CORAM**

**THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN**

**W.P.NO.20055 OF 2024**  
**AND WMP NO.21950 OF 2024**

A.Karunakaran

... Petitioner

***Vs.***

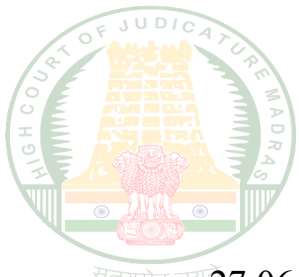
1.The Joint Registrar of Cooperative Societies  
Thiruvannamalai Region,  
Thiruvannamalai,  
Thiruvannamalai District.

2.The Deputy Registrar of Cooperative Societies  
Thiruvannamalai Circle,  
Thiruvannamalai,  
Thiruvannamalai District.

3.The Administrator  
H.H.615, Polur Primary Agricultural  
Cooperative Credit Society  
Diversion Road, Near Renugambal School,  
Polur – 606 803. Thiruvannamalai District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1<sup>st</sup> respondent in his Revision Petition No.05/2022 Sa.Pa. (Na.Ka.No.3267/2022/Sa.Pa) dated



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27.06.2024 and quash the same.

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For Petitioner : Mr.C.Prakasam  
For Respondents : Mr.S.Ravikumar  
Special Government Pleader

### **ORDER**

This Writ Petition has been filed in the nature of a Certiorari, seeking records relating to the order passed by the first respondent, Joint Registrar of Cooperative Societies, Thiruvannamalai Region, Thiruvannamalai in Revision Petition No.05/2022 Sa.Pa.(Na.Ka.No. 3267/2022/Sa.Pa) dated 27.06.2024 and quash the same.

2.In the affidavit filed in support of the writ petition, it has been stated that the petitioner was appointed on compassionate grounds as an Office Assistant in the third respondent, Polur Primary Agricultural Cooperative Credit Society, Thiruvannamalai District, on 01.08.2013. He was appointed on compassionate grounds following the unfortunate death of his father, who was working as a Night Watchman, at the age of 52 while in service. It has been stated that the petitioner's salary has not been fixed, although other employees of the third respondent society have had their salaries determined and fixed, even through settlements with the



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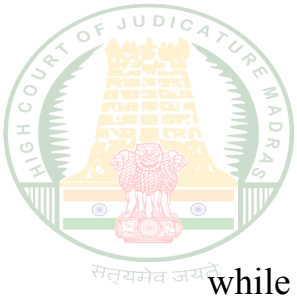
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Management. The petitioner submitted a representation on 07.04.2022, requesting a revision of his pay scale in accordance with the Registrar's Circular dated 08.11.2018, seeking retrospective effect from 01.04.2018.

3.The petitioner filed a Revision Petition under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as 'the Act'). However, the petition was rejected on the ground that no specific order had been challenged. The petitioner was directed to file a petition under Section 90 of the said Act, by order dated 26.04.2022.

4.Thereafter, the petitioner filed a writ petition in W.P.No.17962 of 2023, seeking the interference of this Court with the order dated 26.04.2022. Another order was passed by the respondents under Section 153 of the Act, rejecting the revision petition, by order dated 27.06.2024. It is under these circumstances that the present writ petition has been filed.

5.There are two issues raised in the writ petition. The first issue pertains to the regularization of the petitioner's appointment, which was made on compassionate grounds following the death of his father



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while in service. The second issue is the recognition of his employment and the payment of the requisite time scale of pay to the petitioner.

6.In the counter affidavit, it is contended that the petitioner was appointed as Office Assistant by the Board of Management of the third respondent without obtaining departmental permission. It is further contended that the petitioner could not be considered for regular service, as the initial appointment was not made with proper approval from the Department. With respect to the scale of pay, the respondents have contended that the petitioner's father had not been brought into regular service and therefore, the petitioner cannot seek such relief.

7.With respect to the first contention, it must be stated that the petitioner was appointed by the Board of Management, which established a contract between the petitioner and the Board. If the Board of Management did not subsequently inform the Department of this fact, the petitioner cannot be held at fault. It is also important to note that the petitioner's father was working as a Night Watchman under the third respondent, and it is a further fact that he died while in service with the



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third respondent. Therefore, the petitioner had a legitimate expectation of being considered for employment on compassionate grounds, provided he was otherwise eligible.

8.The second argument put forth by the respondents is that the petitioner's father was not brought into regular service. However, the learned counsel for the petitioner contends that the petitioner's father should be deemed to have been brought into regular service in view of his long service in the society.

9.In this connection, learned counsel for the petitioner also placed reliance on the order of the learned Single Judge of this Court in ***K.Anbarasan Vs. The Joint Registrar of Cooperative Societies, Thiruvannamalai Region and Others [W.P.No.4571 of 2023 decided on 08.06.2023]*** wherein the learned Single Judge also examined the appointment on compassionate grounds of the son of an employee who had not been brought into regular employment. The reasoning of the learned Single Judge is as follows:



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*“5.The petitioner's father was initially engaged on daily wages basis on 10.09.1982. When he was promoted as a Salesman in the Public Distribution System on 05.04.1988, he was sanctioned with the regular time scale of pay. It is not in dispute that the petitioner's appointment was on the sanctioned vacancy and that he was not sponsored through Employment Exchange.*

*6.When similarly placed Salesmen or Packers in the Co-operative Societies, Marketing Societies and Co-operative Wholesale Stores were appointed on daily wages basis and thereafter brought in regular time scale of pay, approached this Court in the case of A.Sivakumar Vs. The Secretary to Government, Food, Co-op. & Consumer Protection Department, Chennai & Others reported in CDJ 2021 MHC 425, seeking for regularisation of their services, this Court by its order dated 19.02.2021, directed the official respondents to regularise their services and further rendered a finding stating that the benefit of regularisation, will also be extended to such employee, who had not approached the Court. The relevant portion of the order reads as follows:-*

*“37.In view of the above discussion, all the Writ Petitions are disposed of with the following directions:*

*a. All those Petitioners/Respondent Employee, as the case may be who have at the time of their appointment, fulfilled their educational qualification, who have been appointed in a sanctioned post within the cadre*



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*strength, and are in regular scale of pay, are declared to have satisfied the substantial / mandatory qualification prescribed under Rule 149(1) of the Rules;*

*b.The appointments not being sponsored by the employment exchange, as prescribed under Rule 149(2) of the Rules, will only make the appointments irregular and not illegal;*

*c.All those Petitioners/Respondent Employee, as the case may be who have fulfilled the criteria stipulated in Clause (a), shall be regularised by the Respondents by issuing appropriate proceedings within a period of 8 weeks from the date of receipt of copy of this Order by taking the cut-off date as 12.03.2001;*

*d.The regularization of service of the Petitioners/Respondent Employee, as the case may be will not entail them with any additional monetary benefits except the consequential benefits which flows from such regularization; and*

*e.The benefit of regularization that is extended to the eligible Petitioners/Respondent Employee, as the case may be shall also be extended to all those employees who are similarly placed even though they have not knocked the doors of this Court.*

*Accordingly, the batch of writ petitions are disposed of. No costs. Consequently, all the*



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*connected miscellaneous petitions are closed.?*

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*7.The aforesaid judgment was delivered on 19.02.2021, when the petitioner's father was alive and in service. He had later died on 24.09.2021. In view of the decision of this Court cited supra, the service of the petitioner's father would also be required to be 'regularised', since the benefit of regularisation was extended to such employees, who have not approached the Court also.*

*8.This apart, the Hon'ble Supreme Court had also ratified this position in the case of State of Uttar Pradesh and Others Vs. Arvind Kumar Srivastava and Others reported in 2015 (1) SCC 347 by holding that, when a relief is granted by a Court to a particular set of employees, the same should be made applicable to the identically situated persons also. The relevant portion of the order reads as follows:-*

*"22.1 The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly*



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*situated persons did not approach the Court earlier, they are not to be treated differently.”*

*Thus, when this Court had passed the order in A.Sivakumar's case (supra) on 19.02.2021, when the petitioner's father was very much in service, the respondent ought to have regularised his services. Having failed to pass such orders of regularisation till 24.09.2021, on which date the employee had died, in failure on their part in this regard, cannot be put against the employee. In other words, it requires to be construed that there was a 'deemed regularisation' granted to the petitioner's father in view of the failure on the part of the respondents to comply with the earlier orders of this Court in A. Sivakumar's case (supra) within a reasonable time.*

*9.The other objection raised by the respondents is that the petitioner's father's initial appointment was not sponsored through Employment Exchange. This aspect was also dealt with in A.Sivakumar's case (supra), wherein all the petitioners, who have approached this Court were also not sponsored from the Employment Exchange. The learned Single Judge had relied upon various decisions of the Hon'ble Supreme Court in connection with the right of an irregular appointee to claim regularisation of services, is legally permissible. The relevant portion of the order reads as follows:-*

*“43.As to what would constitute an irregular appointment is no longer res integra. The decision of this Court in State of Karnataka v. M.L. Kesari [(2010) 9 SCC 247 : (2010) 2 SCC*



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*(L&S) 826] , has examined that question and explained the principle regarding regularisation as enunciated in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. The decision in that case summed up the following three essentials for regularisation: (1) the employees have worked for ten years or more, (2) that they have so worked in a duly sanctioned post without the benefit or protection of the interim order of any court or tribunal, and (3) they should have possessed the minimum qualification stipulated for the appointment. Subject to these three requirements being satisfied, even if the appointment process did not involve open competitive selection, the appointment would be treated irregular and not illegal and thereby qualify for regularisation. Para 7 in this regard is apposite and may be extracted at this stage: (M.L. Kesari case [(2010) 9 SCC 247 : (2010) 2 SCC (L&S) 826] , SCC p. 250).”*

*10.The learned Judge had also placed reliance on the decision of the following portion of the decision of the Hon'ble Supreme Court in the case of Sheo Narain Nagar and Others Vs. State of Uttar Pradesh reported in 2018 (13) SCC 432:-*

*“20.It is clear from the above judgements that paragraph 53 of the judgement in Umadevi's case (cited supra) has given rise to a glimmer of hope for all those employees whose appointments*



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*are irregular but who have voluntarily and continuously worked for ten years or more in a duly sanctioned post with prescribed minimum qualifications. In no uncertain terms, the Hon?ble Supreme Court has held that those category of employees who fulfil this criteria as on 10.04.2006 will be entitled to be considered for regularization.”*

*11.Thus, in view of the above findings and discussions, the petitioner's father is deemed to have been 'regularised' in service under the orders of this Court and since an irregular appointee, who has put in more than 10 years of service is also entitled for the benefit of regularisation of his services, the reason assigned in the impugned order cannot be sustained. Accordingly, the impugned order passed in Na.K.225/2022/Tho.Ve.Ko.Ka.Sa dated 21.01.2023, is quashed. Consequently, there shall be a direction to the respondents herein to pass appropriate orders on the petitioner's application dated 09.12.2022, granting appointment on compassionate ground, within a period of six weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.”*

10.The ratio laid down by the learned Single Judge is directly applicable to the facts and circumstances of this case. The



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petitioner's father should also be deemed to have been regularized in service, given the long period of service he rendered, in light of the judgment in *A.Sivakumar's case (cited supra)*. This judgment directly applies to the father of the petitioner. Therefore, the petitioner should be placed under the regular time scale of pay.

11.With respect to his initial appointment, as pointed out earlier, the Board of Management had lawfully appointed the petitioner on credible grounds, given that his father had died during the course of employment. The appointment was regular, and the petitioner's claim of being appointed on compassionate grounds has been addressed in its proper perspective. Therefore, I do not give much credence to the statement made by the respondents that, since the Board of Management did not obtain permission from the Department, the petitioner's appointment should be interfered with by this Court.

12.In view of all the reasons stated above, the writ petition is allowed and the impugned order is quashed. The respondents are directed to grant the time scale of pay to the petitioner in accordance with the



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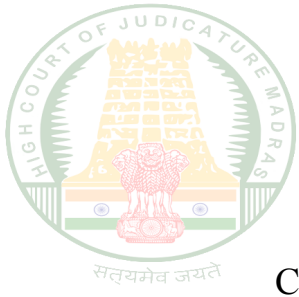
other employees of the third respondent Society. Necessary orders in this regard must be passed within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

**06.03.2025**

Index : Yes / No  
Internet : Yes / No  
Speaking Order : Yes / No  
Neutral Citation : Yes / No  
TK

To

- 1.The Joint Registrar of Cooperative Societies  
Thiruvannamalai Region,  
Thiruvannamalai,  
Thiruvannamalai District.
- 2.The Deputy Registrar of Cooperative Societies  
Thiruvannamalai Circle,  
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Cooperative Credit Society  
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C.V.KARTHIKEYAN, J.

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