

WP(MD)No.13419 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.13419 of 2022
and
WMP(MD)Nos.9525, 17077 of 2022

Palanimurugan

.. Petitioner

v.

- 1.The Registrar of Co-operative Societies (Housing),
Tamil Nadu Co-operative Housing Federation,
2nd Floor, No.48, Retherathan Road,
Vepperi, Chennai – 7.
- 2.The Deputy Registrar of Co-operative Societies (Housing),
O/o.Deputy Registrar of Co-operative Societies (Housing),
Tirunelveli Region, Singam Buildings,
Thiruvanantham Road,
Tirunelveli.
- 3.The Co-operative Sub Registrar (Housing),
Thoothukudi, Thoothukudi District.
- 4.EE.289, Harvey Staff Co-operative Building Society Ltd.,
Rep. by its President,
No.106-J-58, Millerpuram,
Backside of Vikasa School,
Thoothukudi – 628 008.



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5.Thoothukudi Taluk Co-operative Housing Society Ltd.,
(TNV.HSG.33),
Rep. by its President,
No.2, Chidambara Nagar Main Road,
Thoothukudi – 628 008.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the first respondent to absorb the petitioner as permanent employee as Secretary in the fourth respondent Society in the light of G.O.Ms.No.71, Housing and Urban Development (HCS – 2) Department, dated 26.02.2021.

For Petitioner : Mr.P.R.Prithviraj

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.3

Mr.M.Saravanakumar for R.4

No appearance for R.5

ORDER

The petitioner is an employee of the fifth respondent Society. He was inducted as a Clerk in the fifth respondent Society and was deputed to the



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fourth respondent Society on 07.02.2018 for a period of three years. He has filed this writ petition seeking a mandamus to absorb him as a permanent employee of the fourth respondent Society, in the light of G.O.Ms.No.71, Housing and Urban Development (HCS – 2) Department, dated 26.02.2021.

2.It appears that the petitioner's period of deputation in the fourth respondent Society expired on 31.01.2021. In the meantime, the petitioner was promoted as Secretary in the fourth respondent Society. Though the period of deputation was over, the petitioner was not relieved from the fourth respondent Society. However, on the request of the petitioner, the fourth respondent Society made a proposal to the first respondent to permit the petitioner to continue in the fourth respondent Society. The petitioner has also approached this Court by way of a writ petition in WP(MD)No. 8298 of 2021. By referring to the provision under Rule 149(2-A) of the Tamil Nadu Co-operative Societies Rules, 1988, that an employee of a Society can be deputed to another Society only for a period of three years, this Court, by order dated 23.06.2021, disposed of the said writ petition, with a liberty to the petitioner to make an application for deputation to some other



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Society. However, by taking advantage of this order dated 23.06.2021, the first respondent has extended the deputation service beyond the period of three years in the same fourth respondent Society, by an order dated 07.10.2021. In this period, the petitioner appears to have committed some fraud in an another in-charge Society and he has misappropriated to the tune of Rs.8,22,757/-. A criminal case was also registered as against this petitioner by the Economic Offences Wing in Crime No.1 of 2024 on 17.02.2024.

3.The deputation is permissible under Rule 149 (2-A) of the Tamil Nadu Co-operative Societies Rules. The rule is extracted as under:-

“149. Conditions of service of paid officers and servants of societies.

(2-A) A society may transfer an employee to another society for a period of not less than one year on deputation basis and the other society may avail the services of that employee on the terms and conditions agreed to by both the societies:

Provided that no such transfer shall be made for a period exceeding three years.”



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4.The rule enables deputation for a period not exceeding three years in a Society. However, without following the rules, the petitioner was permitted to work beyond this period. The petitioner was also provided with extension beyond this period in the very same Society, six months after the expiry of the deputation period.

5.In fact, without any authority and without there being any order, the petitioner was allowed to continue in the fourth respondent Society for a period of six months, after the expiry of the original deputation period. He was not relieved from the fourth respondent Society and no action was taken as against the Society which has not relieved him after the deputation. Strangely, without any enabling provision, the first respondent has extended the petitioner's deputation period by one year.

6.Now, taking advantage of this position, the petitioner has once again approached this Court by referring to G.O.Ms.No.71, Housing and Urban Development (HCS - 2) Department, dated 26.02.2021. This



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Government Order provides for deputation of the employees if the Society, in which they are working, is under liquidation. The fifth respondent Society is the original employer of the petitioner and the fifth respondent Society was never under liquidation. Therefore, this Government Order is not applicable to the present case.

7.For the reasons aforesaid and in the absence of any enabling provision, this Court is not inclined to issue any mandamus as sought for. Accordingly, this writ petition stands dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

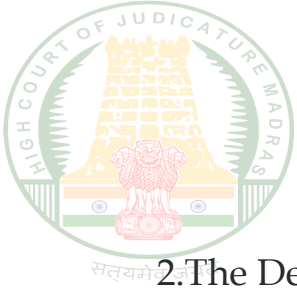
21.01.2025

NCC : Yes / No

gk

To

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B.PUGALENDHI, J.

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