

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2015

Coram

The Hon'ble Mr. Justice D.HARIPARANTHAMAN

W.P.No.21447 of 2015
and
M.P.Nos.1 and 2 of 2015

P.S.Ekambaram .. Petitioner

Vs.

1.The Managing Director,
Triplicane Urban Co-operative
Stores, No.156, Big Street,
Triplicane, Chennai - 5.

2.The Domestic Enquiry Officer,
Triplicane Urban Co-operative
Stores, No.156, Big Street,
Triplicane, Chennai - 5.

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus directing the second respondent to conduct re-enquiry into the disciplinary proceeding initiated against the petitioner in charge memo dated 11.03.2014 by allowing the petitioner to peruse the documents prior to the conduct of enquiry and granting all reasonable opportunities to defend himself and till then not to proceed further with the memo of the first respondent in his Proceeding Na.Ka.No.1234/14 E2 dated 04.07.2015.

For Petitioner .. Mr.J.Muthukumaran

For Respondents .. Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader

ORDER

The petitioner is an employee of the first respondent. He was placed under suspension by an order dated 21.02.2014. Thereafter, he was issued with a charge memo dated 11.03.2014. The petitioner filed a revision petition against the order of suspension before the revisional authority under the Tamil Nadu Co-operative Societies Act. The revisional authority rejected the same by an order dated 28.11.2014.

2.The petitioner filed W.P.No.4153 of 2015 against the order of the revisional authority. At the time of hearing of the writ petition, it was represented that the petitioner would be satisfied if a direction is issued to conclude the enquiry within a stipulated period. Hence, this Court in W.P.No.4153 of 2015, on 23.03.2015, directed the first respondent to complete the enquiry and pass final orders within a period of six months.

3.Now, the enquiry is over and the enquiry officer gave his report. According to the petitioner, the enquiry was conducted in violation of principles of natural justice and it was an exparte enquiry and he was not given documents.

4.The first respondent is the co-operative society. The petitioner questioned the suspension order before the revisional authority knowing very well that the writ petition is not maintainable against the co-operative society. Now, the petitioner cannot complain in this writ petition that he was not given fair opportunity in the enquiry, if at all, he has any grievance, he could approach the revisional authority and I am of the view that the allegations made relating to the departmental enquiry in a co-operative society cannot be gone into under Article 226 of the Constitution of India, in view of the Larger Bench judgment in K.Marappan Vs. The Deputy Registrar of Cooperative Societies, Namakkal Circle, Namakkal and another (2006 (4) CTC 689).

5.At this juncture, the learned counsel for the petitioner has submitted that the petitioner is not paid subsistence allowance. Hence a direction is issued to the first respondent to pay subsistence allowance to the petitioner, if it is not already paid. The subsistence allowance shall be paid until passing of the final order in the disciplinary proceedings.

6.The writ petition is dismissed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

mmi
To

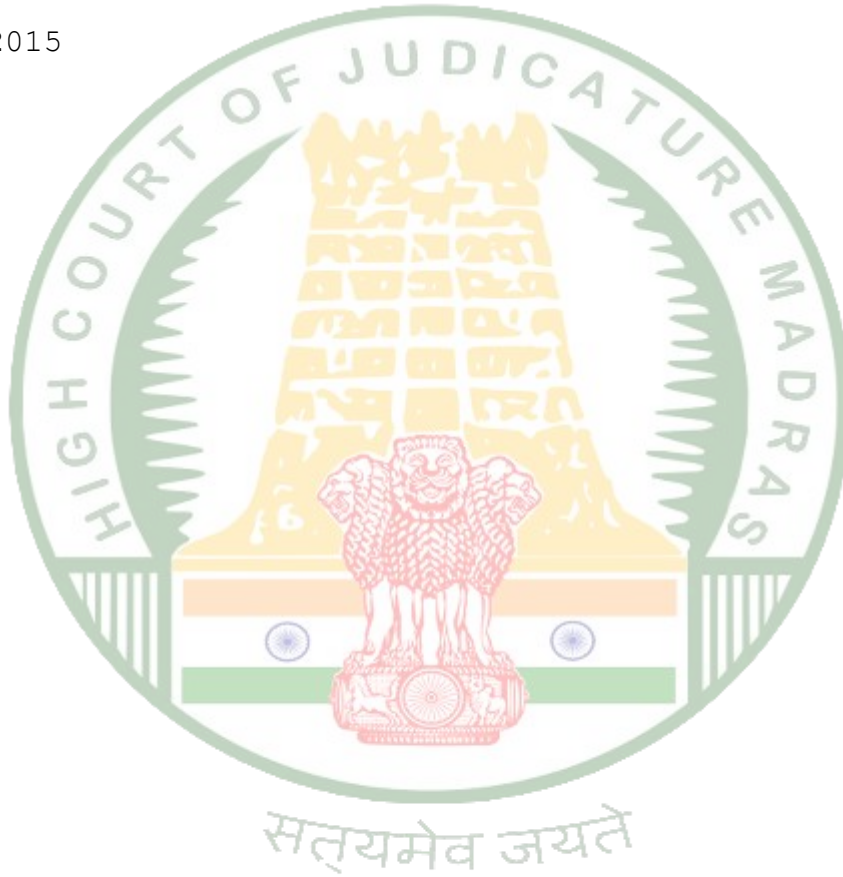
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1 cc to Mr.L.P.Shanmugasundaram, Advocate Sr.No.36764
1 cc to Mr. .J.Muthukumaran, Advocate Sr.No.36510

W.P.No.21447 of 2015

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