

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 4.2.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.25884 OF 2014

S.Sampath

... Petitioner

versus

1.The Joint Registrar/Managing Director,
Villupuram District Central
Cooperative Bank Ltd.,
2, Hospital Road, Villupuram 605 602

2.The Joint Registrar of
Cooperative Societies,
Villupuram Region ... Respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for records on the file of the respondents relating to the impugned order of the 2nd respondent bearing No.Na.Ka.7812/ 2013/SABA dated 8.8.2014 and quash the same and direct the 1st respondent to pay all retirement benefits due to the petitioner with interest at 12% from the date of retirement till date of payment.

For petitioner

Mr.A.S.Thambusamy

For respondents

Mr.R.Arumugam, for R-1

Mr.D.Venkatachalam, for R-2

O R D E R

This Writ Petition is directed against the order dated 8 August 2014, whereby and whereunder, the revisional authority upheld the order dated 30 September 2013 on the file of the 1st respondent, refusing to permit the petitioner to retire on account of the pendency of enquiry under Section 81 of the Cooperative Societies Act. Summary of facts :-

2. The petitioner was initially appointed in the erstwhile South Arcot District Cooperative Bank as Clerk and thereafter, he was absorbed in the service of the Villupuram District Central Cooperative Bank Ltd. with effect from 2 May 1997. The petitioner was promoted as Assistant Manager. The petitioner functioned as Field Manager, Villupuram Circle, from 4 June 2012 to 30 September 2013.

3. The petitioner was given the task of supervision of 46 Primary Agricultural Cooperative Credit Societies in Villupuram Circle. The petitioner, on the basis of his inspection, submitted a report with respect to the functioning of a society by name Kandamanady Primary Agricultural Cooperative Society. The first respondent, pursuant to the said report, constituted a committee, in which the petitioner was also a member, to scrutinize the accounts of the society and to ascertain the exact amount of misappropriation. The petitioner, along with the other members of the committee, submitted a report on 2 February 2013. The first respondent made a request before the Deputy Registrar of Cooperative Societies to order an enquiry under Section 81 of the Cooperative Societies Act. The Deputy Registrar initiated proceedings pursuant to the said request. The petitioner was summoned to appear before the enquiry officer. The petitioner appeared before the Enquiry Officer and submitted his statement.

4. While so, the petitioner attained the age of superannuation on 30 September 2013. However, he was not permitted to retire on account of the pendency of proceedings under Section 81 of the Act. The order refusing to permit him to retire from service was challenged before the second respondent by invoking Section 153 of the Tamil Nadu Cooperative Societies Act. The second respondent, confirmed the said order. Feeling aggrieved, the petitioner has come up with this Writ Petition.

5. The first respondent has filed a counter affidavit wherein it was contended that the Deputy Registrar of Cooperative Societies by letter dated 23 September 2013, informed the Bank that Section 81 enquiry in respect of Kandamandy and Premadesam Primary Agricultural Cooperative Credit Society is pending and as such, it would not be possible to permit the petitioner to retire from service.

6. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

Discussion :-

7. The petitioner functioned as Field Manager, Villupuram Circle, in his capacity as Assistant Manager of Villupuram District Central Cooperative Bank. The petitioner appears to have found certain acts of misappropriation committed by the officials of two cooperative societies and the same resulted in initiating proceedings under Section 81 of the Cooperative Societies Act by the Deputy Registrar of Cooperative Societies. There is nothing on record to show that there were allegations against the petitioner, warranting action to be taken against him. When the petitioner attained the age of superannuation, he was not permitted to retire, solely on the ground that enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act is pending. Pendency of the statutory enquiry against the officers of two Cooperative Societies cannot be a reason to keep

the petitioner in service notwithstanding his superannuation on 30 September 2013.

8. The respondents were given sufficient time to produce materials to show that the petitioner was a party to the act of misconduct committed by the officials of the societies concerned. The respondents failed to produce even a single document before this Court to show that the petitioner was a privy to the transaction. The so called pendency of enquiry under Section 81 of the Cooperative Societies Act should not cause prejudice to an employee who was instrumental in submitting a report to the Cooperative Society, with regard to the acts of mismanagement committed by the officials of the societies in question. The revisional authority has made certain observations with respect to the merits of the case without any supporting material. The only reason for keeping the petitioner in service appears to be the pending proceedings under Section 81 of the Act.

9. The respondents have miserably failed to produce materials before this Court to substantiate the reasons to retain the petitioner in service. Therefore, I am of the view that the petitioner is entitled to succeed.

10. In the result, the impugned order is set aside. The first respondent is directed to pass a consequential order, permitting the petitioner to retire from service. He should be paid the retirement benefits. It is open to the respondents to take further action against the petitioner to recover the loss even after retirement, in case there is a finding that he was also responsible for causing loss to the society and a consequential order of quantification of such loss.

11. The Writ Petition is allowed to the extent indicated above. No costs. Consequently, M.P.No.1/2014 is closed.

Sd/- सत्यमेव जयते
Assistant Registrar
Dated:12.2.15

True Copy

Sub Assistant Registrar

To

1.The Joint Registrar/Managing Director,
Villupuram District Central
Cooperative Bank Ltd.,
2, Hospital Road, Villupuram 605 602

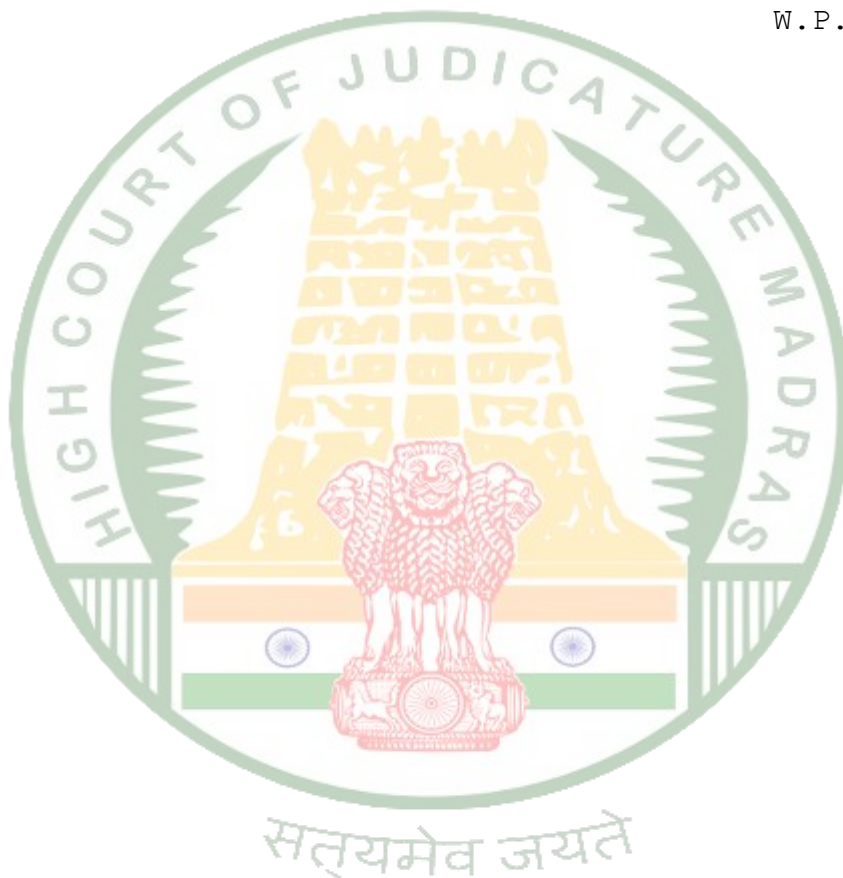
2.The Joint Registrar of
Cooperative Societies,
Villupuram Region.

+1 cc to Mr.R.Arumugam, Advocate,SR.5738

+1 cc to Mr.A.S.Thambusamy, Advocate,SR.5739.

rsy(co)
krd 23/2

W.P.No.25884 OF 2014



WEB COPY