

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.30403 of 2015

S.Mangammal

..Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Vellore Zone,
Vellore.

2. Vellore District Consumer Cooperative
Wholesale Stores Ltd.,
Rep by its Joint Registrar/Managing Director,
Old No.14, New No.32, Officer's Line,
Vellore-632 001.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the concerned records from the first respondent, quash the order of the first respondent dated 11.09.2015 bearing Na.Ka.No.6346/2015A2 and consequently direct the first respondent to take the Revision Petition dated 24.08.2015 on record and pass orders on the revision petition on its merits and in accordance with law within a time frame.

For Petitioner

: Mrs.S.Suryadevi
for M/s.Balan Haridas

For Respondents

: Mrs.T.P.Savitha,
Government Advocate (Co.op)

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner, while working as Saleswoman in the services of the second respondent Cooperative Society was issued with a charge memo dated 05.11.2005 containing three charges and also issued with two other charge memos dated 07.12.2005 and 18.01.2006

respectively. After enquiry in respect of the above said charge memos, the second respondent, vide order dated 15.05.2006, imposed the punishment of reduction of basic pay to the minimum time scale and challenging the same, the petitioner preferred a revision before the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, which was dismissed vide order dated 26.10.2006. Aggrieved by the same, the petitioner preferred W.P.No.46954/2006 and it was finally disposed of, vide order dated 11.11.2011, remanding the matter to the first respondent for conducting fresh enquiry after affording opportunity to the petitioner and thereafter, the revision was partly allowed, vide order dated 22.04.2013, modifying the punishment as stoppage of two increments without cumulative effect, based on which the second respondent passed a consequential order dated 17.05.2013, recovering the monetary value of two increments from her terminal benefits. The grievance expressed by the petitioner is that the punishment of stoppage of two increments imposed on the petitioner after she was permitted to retire, is per se illegal and apart from that it was also directed to be recovered from the petitioner's terminal benefits. The petitioner, in this regard, filed a revision dated 21.08.2015 before the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 and it was returned, vide order dated 11.09.2015, on the reason that the petitioner has to raise a dispute under Section 90 of the said Act and challenging the legality of the same, the present writ petition is filed.

3. Mrs.S.Suryadevi, learned counsel appearing for the petitioner has drawn the attention of this Court to the order dated 16.09.2015 made in W.P.No.29304 of 2015 and would submit that in similar facts and circumstances, this Court has held that the revision under Section 153 of the Tamil Nadu Cooperative Societies Act is maintainable and hence, prays for similar orders.

4. Heard the submissions of Mrs.T.P.Savitha, learned Government Advocate, who accepts notice on behalf of the respondents.

5. It is relevant to extract Section 153(1) of the Cooperative Societies Act, 1983:

"153.Revision.-(1) The Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the Board or any officer of a registered Society or of the Competent Authority constituted under sub-section (3) of Section 75 and the Government may, of their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the Rules or the Bylaws not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of Section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if in any case, it appears to the Registrar or the Government that any such

decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly:

Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant."

As per the said provision, the Registrar, in respect of any proceedings under this Act or the Rules or the Bylaws.....to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein.

6. In the light of the said power conferred with the first respondent, this Court is of the view that the revision preferred before him is perfectly maintainable.

7. In the result, this Writ Petition is partly allowed and the impugned order in Na.Ka.No.6346/2015 A2 dated 11.09.2015 passed by the first respondent is set aside and the matter is once again remanded to the first respondent, who shall take the revision dated 24.08.2015 on file and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

-Sd/-

Assistant Registrar(cs-III)

//True copy//

Sub Assistant Registrar

1. The Joint Registrar of Co-operative Societies,
Vellore Zone,
Vellore.

2.The Joint Registrar Managing Director,
Vellore District Consumer Cooperative
Wholesale Stores Ltd.,

+1cc to Mr.Balan Hardas,Advocate(sr.52657)

+1 cc to Government Pleader (sr.52947)

W.P.No.30403 of 2015

TEJ(co)

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