

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.5.2016

CORAM :

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.18415 of 2016

R.Muthukumarappan

... Petitioner

Vs.

1. The Joint Registrar of Cooperative Societies,
Villupuram Region, Villupuram,
Villupuram District
 2. The Managing Director/
Joint Registrar of Cooperative Societies
Villupuram District Central Cooperative Bank
No.2 Hospital Road Villupuram- 605 602.
 3. The Chairman
Villupuram District Central Cooperative Bank
No.2 Hospital Road Villupuram-605 602.
- ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings A.Thi. Mu. No.2056/2016/Sa.Pa dated 20.04.2016 and quash the same and consequently direct the 1st respondent to entertain the Statutory Revision and dispose the same on merits.

For Petitioner : Mr. C.Prakasam

For Respondents : Mr.R.Balaramesh
Additional Government Pleader

O R D E R

This writ petition is filed challenging the order dated 22.04.2016, whereby the petitioner's revision petition has been rejected on the ground that the same has not been filed within the time.

2. The petitioner was appointed as Trainee in Cuddalore District Central Central Coop. Bank, Cuddalore. Subsequently, he was promoted as B-Grade Agent and thereafter as Assistant General

Manager and subsequently as General Manager. Thereafter, he was posted as General Manager Additional Charge in the 2nd respondent bank on 02.02.2009 where he discharged his duty as General Manager and subsequently, from 20.05.2010, he was given full additional charge as General Manager in the 2nd respondent bank.

3. While he was discharging his duty as General Manager in the respondent bank, the 2nd respondent issued charge memo that he failed to furnish informations to one Karvannan. Even though, the petitioner submitted a detailed explanation, the 2nd respondent without considering the same passed order of reduction of 3% from the basic pay by calculating the last drawn salary and disburse the retirement benefits. Further, it is the contention of the petitioner that the 2nd respondent has no power to proceed further for disciplinary proceedings against retired employees of the Co-operative Societies. In this connection, the petitioner approached the 1st respondent and filed Revision under Section 153 of Tamil Nadu Coop. Societies Act along with condone delay petition but the 1st respondent by order dated 20.04.2016 rejected the same on the ground that it is barred by limitation. Hence, he has come forward with this petition.

4. The learned Additional Government Pleader relying on the Judgment in the case of TMT.MUTHAMMAL TRANSPORTS VS. P.SWATHANTHIRAJAN AND ANOTHER REPORTED IN (2008) 2 L.W. 742 and the Judgment in the case of OM. PRAKASH VS. ASHWANI KUMAR BASSI REPORTED IN (2010) 9 SCC 183 had submitted that when a time limit has been prescribed by a statute, the authority concerned, in the absence of any power to condone the delay, has no power to condone the delay and consequently according to the learned Additional Government Pleader, the writ petition has to be dismissed.

5. It is an admitted fact that the petitioner has filed the said revision with the delay. But, according to the learned counsel for the petitioner, a similar issue has been dealt with by this Court in W.P.No.13127 of 2010 and by order dated 23.06.2010, this Court has passed the following order:-

4. Though technically the first respondent is right in relying upon the proviso to section 153(1), there is no specific provision in the Act, barring the application of the provisions of the Limitation Act. Section 153(1) entitled the Registrar and the Government even to exercise suo motu powers of revision. Therefore, in such circumstances, the first respondent need not have rejected the revision petition on the sole ground that it was barred by limitation.

5. In view of the above, the writ petition is allowed. The impugned order is set aside and the matter is remitted back to the first respondent. The first respondent shall consider the request made by the petitioner for condonation of delay and consider the revision on merits and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs. M.P.No.1 of 2010 is closed".

6. As far as the stand of the learned Additional Government Pleader is concerned, certainly when a time limit has been prescribed, when the power to condone the delay is not given to the authority, the authority concerned cannot condone the delay. Consequently, the order passed by the authority is in order. But, under Article 226 of the Constitution, this Court can take note of the totality of the circumstances and deal with the issue.

7. Hence, in view of the fact that an identical issue has been decided by this Court, I am of the opinion in the case of the petitioner alone a different view cannot be taken and hence the delay in filing the revision is condoned and the 1st respondent is directed to restore the revision filed by the petitioner on his file and to pass orders on merits within a period of four months from the date of receipt of a copy of this order.

8. With this, the writ petition is disposed of. No costs.

Sd/-

Vacation Officer

//True Copy//

Sub Assistant Registrar

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To

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

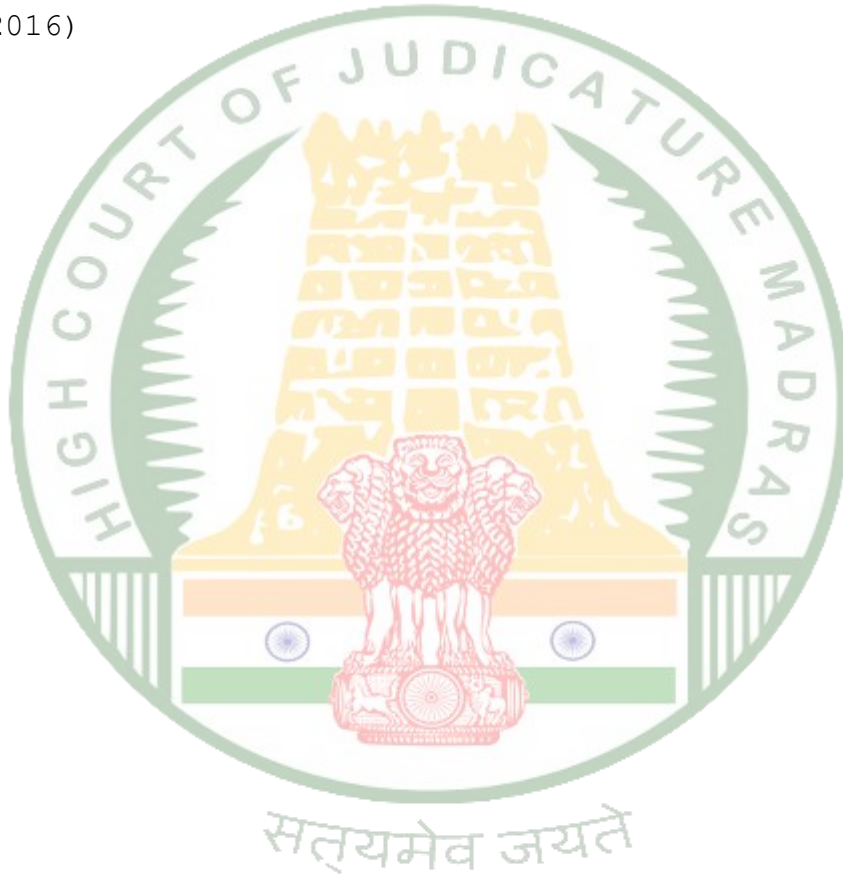
2. The Managing Director/
Joint Registrar of Cooperative Societies
Villupuram District Central Cooperative Bank
No. 2, Hospital Road Villupuram- 605 602.

3. The Chairman
Villupuram District Central Cooperative Bank
No.2 Hospital Road
Villupuram-605 602.

+lcc to Mr.C.Prakasam, Advocate, S.R.No.28721

W.P.No.18415 of 2016

PPA (CO)
CA(01/06/2016)



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