

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.11055 of 2013

and M.P.Nos.1 and 2 of 2013

P.Kothandapani

.. Petitioner

vs.

1.The Secretary to Government,
Cooperation, Food and Consumer
Protection Department,
Fort St.George, Chennai-600 009.

2.The Additional Registrar of Coop. Societies,
(Sales Scheme and Development)
O/o. Registrar of Coop. Societies, Kilpauk,
Chennai-600 010.

3.The Chairman,
Common Cadre Authority/Joint Registrar
of Coop. Societies,
Tanjore Region, Tanjore.

4.The Special Officer,
T.1030, Thamarankottai Primary
Agricultural Coop. Credit Society,
Thamarankottai,
Tanjore District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to G.O.(2D) No.121, Cooperation, Food and Consumer Protection Department dated 21.12.2012 passed by the first respondent whereby modifying the orders of punishment of termination of service of the petitioner passed by the respondents 2 and 3 in their proceedings Na.Ka.No.45222/2009 Sa.Pa.1 dated 10.08.2010 and Na.Ka.No.14388/07/Sa.Pa.1 dated 27.02.2009 respectively and quash the same and consequently direct the respondents to reinstate the petitioner into service as Salesman in the 4th respondent society with all backwages and attendant benefits.

For Petitioner :Mr.C.Prakasam

For Respondents:Mr.L.P.Shanmugasundaram
Special Govt. Pleader (Coop. Societies)

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to G.O.(2D) No.121, Cooperation, Food and Consumer Protection Department dated 21.12.2012 passed by the first respondent, whereby modifying the orders of punishment of termination of service of the petitioner passed by the respondents 2 and 3 in their proceedings Na.Ka.No.45222/2009 Sa.Pa.1 dated 10.08.2010 and Na.Ka.No.14388/07/Sa.Pa.1 dated 27.02.2009 respectively and quash the same and consequently direct the respondents to reinstate the petitioner into service as Salesman in the 4th respondent society with all backwages and attendant benefits.

2. The petitioner was appointed as a Salesman on 04.12.1978 in the fourth respondent Society and subsequently was promoted as Accountant and on 19.09.1991, he was promoted as Secretary Incharge and thereafter promoted as Secretary on 05.08.1992 and was working as Secretary without any blemish of service. While so, to the shock and surprise of the petitioner, on 16.10.2007 the petitioner was placed under suspension and the third respondent framed six charges against the petitioner and he was also issued with a charge memo dated 11.01.2008. The petitioner submitted a detailed explanation with records and after completion of enquiry, the third respondent terminated the petitioner from service, vide proceedings in Na.Ka.No.14388/07/Sa.Pa.1 dated 27.02.2009, against which the petitioner preferred a statutory revision under Section 153 of the Tamil Nadu Cooperative Societies Act before the second respondent, who in-turn confirmed the order of the third respondent and rejected the petitioner's revision, vide proceedings in Na.Ka.No.45222/2009 Sa.Pa.1 dated 10.08.2010. Aggrieved by the same, the petitioner approached the first respondent and filed another revision petition and the first respondent passed G.O.(2D).No.121, Cooperation, Food and Consumer Protection Department dated 21.12.2012, modifying the punishment of termination as compulsory retirement. Challenging the said order, the present writ petition is filed.

3. When the matter is taken up for consideration, Mr.C.Prakasam, learned counsel appearing for the petitioner would submit that the termination order in respect of one Thiru.M.Nagarajan, Cashier, who have also faced enquiry along with the petitioner, was revoked and in fact the said Cashier

had admitted the guilt and deposited the amount and that being so, direction may be given to the respondents to reconsider the petitioner's case also by quashing the impugned order. The learned counsel appearing for the petitioner has also produced a copy of the order passed by the Joint Registrar of Cooperative Societies, Tanjore in Na.Ka.No.4712/2009/Sa.Pa dated 11.03.2015, revoking the termination order in respect of Thiru.M.Nagarajan, Cashier, who have also been charge sheeted along with the petitioner

4. Heard the submissions of Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents.

5. Keeping the rival submissions, I have gone through the entire materials available on record.

6. It is seen that the termination order in respect of one Thiru.M.Nagarajan, Cashier, who have also faced enquiry along with the petitioner, was revoked by the Joint Registrar of Cooperative Societies, Tanjore, vide proceedings in Na.Ka.No.4712/2009/Sa.Pa dated 11.03.2015. Hence, this Court is not inclined to quash the impugned orders passed by the respondents. However, the petitioner is at liberty to give a fresh representation to the first respondent within a period of two weeks from the date of receipt of a copy of this order and the first respondent, on receipt of the petitioner's representation, is directed to consider the same on merits by taking into consideration the revocation of termination order passed by the Joint Registrar of Cooperative Societies, Tanjore dated 11.03.2015 in the case of Thiru.M.Nagarajan, Cashier and pass orders within a period of six weeks thereafter.

7. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

jvm

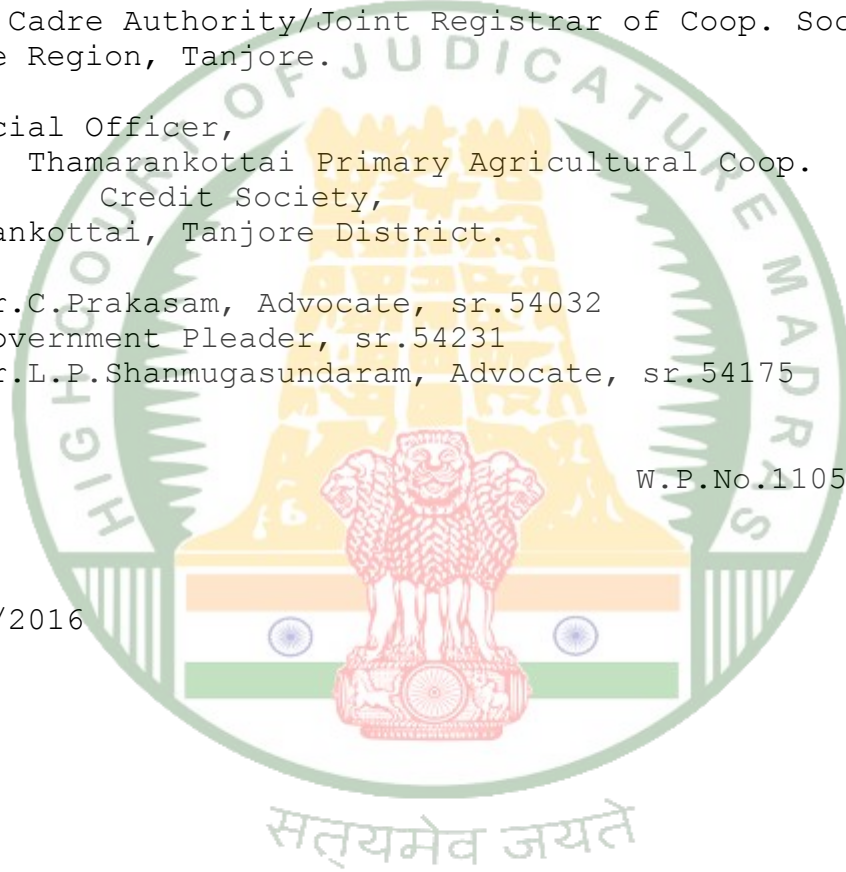
To

- 1.The Secretary to Government,
Cooperation, Food and Consumer Protection Department,
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- 2.The Additional Registrar of Coop. Societies,
(Sales Scheme and Development)
O/o. Registrar of Coop. Societies, Kilpauk,
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- 3.The Chairman,
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Tanjore Region, Tanjore.
- 4.The Special Officer,
T.1030, Thamarankottai Primary Agricultural Coop.
Credit Society,
Thamarankottai, Tanjore District.

- 1 cc to Mr.C.Prakasam, Advocate, sr.54032
1 cc to Government Pleader, sr.54231
1 cc to Mr.L.P.Shanmugasundaram, Advocate, sr.54175

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