

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-06-2016

Coram

THE HON'BLE MR.JUSTICE B. RAJENDRAN

Writ Petition No.21433 of 2016
and W.M.P.Nos.18323 and 18324 of 2016

K.Muruganantham

.. Petitioner

Vs.

- 1.The Registrar of Co-operative Societies
MV Natarajan Maligai
170, Periyar E.V.R.High Road
Kilpauk
Chennai-600 010.
- 2.The Joint Registrar of Co-operative Societies
Co-operative Department
Kancheepuram Range Division
Kancheepuram.
- 3.The Deputy Registrar of Co-operative Societies
Co-operative Department
Chengalpet Circle
Chengalpet.
- 4.The President
G2156, Sholinganallur Town
Co-operative Credit Society
Sholinganallur
Chennai-600 119.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent, dated 19.05.2015 and quash the same and consequently, to direct the respondents herein to reinstate the petitioner with all monetary and attendant benefits and to pass such further orders as it may deem fit.

For Petitioner :Mr.Sankar Ramasamy

For Respondents:Mr.L.P.Shanmughasundaram
Special Government Pleader

O R D E R

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the 4th respondent, dated 19.05.2015 and quash the same and consequently, to direct the respondents herein to reinstate the petitioner with all monetary and attendant benefits.

3. The petitioner was working as Salesman in the 4th respondent Society. While so, he was placed under suspension, by the order of the 4th respondent, dated 19.05.2015, alleging some malpractices in the ration shop. During the period of suspension, the petitioner was not paid the subsistence allowance for certain period. A show cause notice was issued, on 08.06.2015, for which, the petitioner has submitted his explanation. Pursuant to which, an Enquiry Officer was appointed and he has also attended the enquiry, but, till date, no orders have been passed on the enquiry report. Hence, seeking to quash the suspension order, the Writ Petition has been filed.

4. Mr.Sankar Ramasamy, the learned counsel appearing for the petitioner, would submit that the petitioner has been kept under suspension for the past more than one year. He would further add that the grievance of the petitioner is that subsequently, the Enquiry Officer has been appointed and enquiry has been conducted and that inspite of the enquiry report being submitted, till date, no final order has been passed. He would further add that in the criminal case, the charge sheet has already been filed. He would further point out that neither review on extension of suspension has been done, nor during the period of suspension, the petitioner has been paid the subsistence allowance for the past six months, which is a manifest illegality and therefore, the very suspension order lacks merit. He would further submit that the issue of order of suspension cannot be prolonged continuously for long time, as per the well settled legal position enunciated by the Hon'ble Apex Court in the case of Ajay Kumar Choudhary vs. Union of India through its Secretary and another passed in Civil Appeal No.1912 of 2015 dated 16.02.2015. He would also contend that pursuant to the ratio laid down by the Hon'ble Apex Court in Ajay Kumar Choudhary's case (cited supra), the Government also has issued a circular in Letter No.13519/N/2015-1, dated 23.07.2015 for implementation of the direction issued by the Apex Court, wherein, the Apex Court while fixing limitation on the period of suspension had directed as follows:-

(i) The currency of a suspension order should not extend beyond three months if within this period the Memorandum of Charges/Charge sheet is not served on the delinquent officer/employee;

(ii) If the Memorandum of Charges/Charge sheet is served a reasoned order must be passed for the extension of the suspension.

The Departments of Secretariat and Heads of Departments are therefore requested to follow the directions ordered by the Hon'ble Supreme Court of India on the limitations in the period of suspension in letter and spirit."

He would further add that though, the prayer in this Writ Petition is for a larger relief, he is restricting his claim and he would be satisfied, if a direction is issued to the 4th respondent to pay the subsistence allowance and to conclude the disciplinary proceedings within a time frame, for which the petitioner will co-operate.

5. Mr.L.P.Shanmugasundaram, the learned Special Government Pleader, who takes notice for the respondents, has got no objection in issuing the direction as sought for by the learned counsel for the petitioner.

6. Considering the submission of the learned counsel for the petitioner that he is restricting his prayer and also the fact that the petitioner has been kept under suspension for the past more than one year without any review, this Court, without going into the merits of the claim made by the petitioner, directs the 4th respondent, who is the disciplinary authority, to conclude the disciplinary proceedings, for which, as per the undertaking given, the petitioner shall co-operate, and to pass orders, on merits and in accordance with law, in the light of the judgment of the Hon'ble Supreme Court reported in (2015) 3 CTC 119 (SC), Ajay Kumar Chaudry vs. Union of India and also as per Rules, within a period of three months from the date of receipt of a copy of this order. It is made clear that if there is any subsistence allowance due and payable to the petitioner, that should be paid in accordance with the Rules, forthwith. It is further made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner.

7. The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

paa

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Registrar of Co-operative Societies
MV Natarajan Maligai
170, Periyar E.V.R.High Road
Kilpauk
Chennai-600 010.
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Co-operative Department
Chengalpet Circle
Chengalpet.
- 4.The President
G2156, Sholinganallur Town
Co-operative Credit Society
Sholinganallur
Chennai-600 119.

+1cc to M/s. L.P. Shanmugasundaram, Advocate, S.R.No.35044
+1cc to M/s. Sankar Ramasamy, Advocate, S.R.No.34810
+1cc to the Government Pleader, S.R.No.3327

UG(CO)
EU(19/07/2016)

W.P.No.21433 of 2016