

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.31052 of 2016 and
W.M.P.No.26921 of 2016

K.Ravi

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Kancheepuram Region,
Kancheepuram District.

2. The President,
G.3414, Kayarambedu Primary Agricultural
Co-op. Credit Society Limited,
Kayarambedu, Guduvancherry,
Kancheepuram District.

3. V.Duraisamy Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 19.08.2016 issued by the 2nd respondent herein and quash the same and consequently, direct the 2nd and 3rd respondents to conduct afresh domestic enquiry for the charge memo dated 24.11.2015 by affording enough opportunity by recording the evidences along with cross-examination of the witnesses of the management.

For Petitioner :Mr.T.Sundaravadanam

For 1st Respondent :Mr.L.P.Shamugha Sundaram,
Special Government Pleader

O R D E R

The Writ Petition is filed challenging the impugned order dated 19.08.2016 passed by the 2nd respondent herein and quash the same and consequently, direct the 2nd and 3rd respondents to conduct afresh domestic enquiry for the charge memo dated

24.11.2015 by affording enough opportunity by recording the evidences along with cross-examination of the witnesses of the Management.

2. The case of the petitioner is that he was appointed as Salesman in the 2nd respondent Society on 22.01.1993 in Perumattu Nallur Ration Shop and continued to work in various shops of the 2nd respondent Society and thereafter, he was suspended from service on 10.10.2015. After the suspension, he was served with Charge Memo on 24.11.2015 by the 2nd respondent for alleged loss of Rs.16,575/- to the 2nd respondent Society.

3. The further case of the petitioner is that the 3rd respondent issued the domestic enquiry summon on 22.04.2016 calling for domestic enquiry on 28.04.2016. On completion of the enquiry, the 2nd respondent by accepting the enquiry report of the 3rd respondent, served a dismissal order on 19.08.2016 without any show cause notice and explanation for the domestic Enquiry Report dated 03.05.2016 which is against the principles of natural justice. It is also the case of the petitioner that he has not been paid with suspension allowance from the date of suspension on 10.10.2015 till the date of issuance of the dismissal order dated 19.08.2016 by the 2nd respondent. Hence, the petitioner is before this Court with this Writ Petition.

4. Learned Counsel for the petitioner would submit that the 2nd respondent ought to have issued show cause notice calling for explanation for the Domestic Enquiry Report from the petitioner before passing the impugned order of dismissal from the services of the 2nd respondent Society. The act of the 2nd respondent is against the principles of natural justice. Hence, the impugned order has to be set aside.

5. Learned Special Government Pleader appearing for the 1st respondent would submit that the respondent society is ready to issue the 2nd show cause notice to the petitioner along with the Enquiry Report calling for explanation from the petitioner for the domestic Enquiry Report dated 03.05.2016 and on receipt of the explanation from the petitioner, the 2nd respondent Society will pass a fresh order.

6. At this stage, the learned Counsel for the petitioner would submit that the impugned order may be set aside by remanding the matter back to the 2nd respondent for issuing the second show cause notice calling for explanation for the Domestic Enquiry Report from the petitioner and then to pass fresh orders.

7. Though this Court is not inclined to remand the matter back to the 2nd respondent as the enquiry was already concluded, considering the fact that the second show cause notice was not issued enclosing the Enquiry Report calling for explanation from

the petitioner, the impugned order has to be set aside and the matter has to be remanded back to the 2nd respondent enabling him to issue the 2nd show cause notice enclosing the Domestic Enquiry Report calling for explanation from the petitioner and then pass orders based on the explanation of the petitioner.

8. Accordingly, the impugned order of dismissal passed by the 2nd respondent is set aside and the matter is remanded back to the 2nd respondent for the issuance of the 2nd show cause notice enclosing the Domestic Enquiry Report calling for explanation from the petitioner and then pass orders based on the explanation of the petitioner. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Registrar of Co-operative Societies,
Kancheepuram Region,
Kancheepuram District.
2. The President,
G.3414, Kayarambedu Primary Agricultural
Co-op. Credit Society Limited,
Kayarambedu, Guduvancherry,
Kancheepuram District.

+1cc to M/S.L.P.Shanmugasundaram, Advocate Sr.52114
+1cc to the Government Pleader sr.52229

W.P.No.31052/2016

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