

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 29.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.33919 of 2016

V.Rajendran

... Petitioner

-vs-

1.Joint Registrar of Co-operative Societies,  
Villupuram Zone, Villupuram.

2.Management,  
E-2028, Kandamanady Primary Agricultural  
Co-operative Society, Kandamanady,  
Villupuram Taluk & District. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the concerned records from the first respondent, quash the order of the first respondent dated 23.10.2015 bearing A.D.M.No.5945/2015/Sa.Pa and consequently direct the first respondent to entertain the revision petition dated 16.10.2015 preferred by the petitioner preferred under Section 153 of the Tamil Nadu Co-operative Societies Act and pass orders on the same on its merits and in accordance with law within the time frame stipulated by this Court.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.L.P.Shanmugha Sundaram  
Special Government Pleader

ORDER

The petitioner has come up with the present writ petition for a Certiorarified Mandamus, calling for the concerned records from the first respondent and quash the order of the first respondent dated 23.10.2015 bearing A.D.M.No.5945/2015/Sa.Pa and consequently direct the first respondent to entertain the revision petition dated 16.10.2015 preferred by the petitioner under Section 153 of the Tamil Nadu Co-operative Societies Act and pass orders, on its merits and in accordance with law.

2.It is the case of the petitioner that he was appointed as Salesman in the year 1987 and promoted

periodically. Based on certain allegations, he was issued with a charge memo dated 27.04.2013 and an enquiry was conducted and no orders were passed on the proceedings. Thereafter, the petitioner attained the age of superannuation on 30.06.2015; but, the second respondent did not permit him to retire; but, he was relieved from the duty, on the ground that Section 81 enquiry is pending. Further, he has not been paid any terminal benefits. Therefore, the petitioner preferred a revision petition dated 16.10.2015 to the first respondent seeking to pay his terminal benefits. However, the first respondent has passed the impugned order, dated 23.10.2015, stating that the revision petition has not been preferred within 90 days from 23.10.2015 and he has to approach the committee constituted to redress the grievances of the retired employees. Hence, the petitioner has come up with the present writ petition.

3. Heard both sides.

4. The learned counsel appearing for the petitioner submitted that the issue involved in this Writ Petition is covered by the decision of this Court in N.P.Palanisamy vs. State of Tamil Nadu [2012 (4) CTC 257], wherein, it is observed as follows:

"26. From the above judgment, it is crystal clear that an employee of a co-operative society has got remedies available both under the provision of the Tamil Nadu Co-operative Societies Act as well as under the Industrial Disputes Act. In a given case, suppose, an employee who has got both remedies available for him approaches the Labour Court by raising an industrial dispute regarding his termination from service, under the Industrial Disputes Act, there is no limitation and therefore, he can raise the dispute within a reasonable time. If for any reason, he chooses to file a Revision under Section 153 of the Act, belatedly, it cannot be said that his remedy is barred by limitation. It cannot be said that while enacting Section 153 of the Act, the legislature was unaware of the provisions of the Industrial Disputes Act. When there is no period of limitation for an employee to raise an industrial dispute, I am firm in my view that there shall be no such period of limitation for him to file a Revision under the Co-operative Societies Act. Therefore, if we read Section 153 of the Act, in the context of the remedies available under the Industrial Disputes Act, it will surely give

the impression that what is contained in the proviso to Section 153 of the Act, is not at all mandatory and it is only directory."

5. In view of the above said order, the impugned order of the first respondent dated 23.10.2015 is liable to be set aside and accordingly, it is set aside. The petitioner is directed to represent the revision petition to the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to entertain the revision petition of the petitioner dated 16.10.2015 and dispose of the same, on merits and in accordance with law, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the first respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The Writ Petition is allowed accordingly. No costs.

Sd/-  
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

sri

To

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

2.The Management,  
E-2028, Kandamanady Primary Agricultural  
Co-operative Society, Kandamanady,  
Villupuram Taluk & District.

1 cc to M/s.L.P. Shanmugasundaram, Advocate, Sr. 56495

1 cc to M/s. Balan Haridas, Advocate, Sr. 55991

1 cc to Government Pleader, sr. 56478

W.P.No.33919 of 2016

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