

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.40402/2016

S.M.Chandran

... Petitioner

Vs

- 1.The Registrar
Cooperative Societies
170, Periyar EVR High Road
Kilpaukkam, Chennai 600 010.
 - 2.The Joint Registrar,
Salem Zonal Cooperative Society
Door No.410, Collector Office
Campus, Salem-1.
 - 3.The Deputy Registrar,
Cooperative Society, Omalur
Circle, Omalur, Salem District.
 - 4.The President
S-237, Lakshmayur Primary
Agricultural Cooperative Society
Thuttampatti Post, Omalur Taluk
Salem District-636306.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 2nd respondent to consider and pass an order in the complaint dated 14.07.2014 in pursuant to the enquiry conducted on 04.11.2014 so as to reinstate the petitioner in service.

For Petitioner : Mr.M.Elango

For RR 1 to 4 : Mr.L.P.Shanmugasundaram
Spl.GP [Coop.]

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that he was appointed as an Office Assistant in the services of S-237, Lakshmayur Primary Agricultural Cooperative Society, Thuttampatti Post, Omalur Taluk, Salem District on compassionate ground appointment and vide appointment order dated 10.07.2008, it has also been stated in the said order that since there was no vacancy available in the cadre of Office Assistant in the said Society, the petitioner has to discharge his duties under Deputation in other Cooperative Society until vacancy is created in the 5th respondent / Society and accordingly, the petitioner got his appointment as an Office Assistant in the services of the 4th respondent and subsequently, he was assigned with an additional duty as Night Watchman alternatively for fifteen days along with one Govindasamy. It is stated by the petitioner that though Thiru Govindasamy has performed his duty as Night Watchman for years together, his services are yet to be regularised and the services of the petitioner was continued to be utilised only as a Night Watchman and therefore, the petitioner protested the same and pleaded that he should be engaged as an Office Assistant. The 4th respondent got infuriated over the same and has not allowed the petitioner to sign the Attendance Register ever since 27.06.2013 and as a consequence, he has been marked as "absent" from that date onwards. The petitioner was also called upon to submit his explanation and he had also submitted the same on 08.10.2013. The petitioner would further state that the 4th respondent, with an oblique motive, has framed charges against him and the petitioner also denied it and an Enquiry Officer was appointed, who, vide his report dated 26.11.2013, has stated that the charges framed against the petitioner have been proved and after complying with the formalities, the services of the petitioner in the cadre of Office Assistant was terminated with effect from 31.12.2013 Forenoon onwards. The petitioner in this regard, had filed a claim petition dated 04.11.2014 and also sent a representation dated 26.11.2013 praying for setting aside the order of termination and reinstatement of him in service and since those representations have not been considered, the petitioner came forward to file the present writ petition.

3 Heard the submissions of Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents who would submit that the remedy open to the petitioner, if any, is to invoke the jurisdiction of the Joint Registrar / 2nd respondent herein, u/s.153 of the Tamil Nadu Cooperative Societies Act, 1983 and therefore, submitted that the writ petition is not maintainable.

4 This Court, taking into consideration, the above facts and circumstances, permits the petitioner to submit a statutory appeal to the 2nd respondent u/s.153 of the Tamil Nadu Cooperative Societies Act, 1983 within a period of two weeks from the date of receipt of a copy of this order and the 2nd respondent, upon the receipt of the same, shall entertain the said appeal, if the papers are otherwise in order, without putting the issue of limitation and pass orders on merits and in accordance with law, within a further period of six weeks thereafter and communicate the decision taken, to the petitioner.

5 The writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Registrar
Cooperative Societies
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- 3.The Deputy Registrar,
Cooperative Society, Omalur
Circle, Omalur, Salem District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.73186
+1cc to Mr.M.Elango, Advocate Sr.73214
+1cc to the Government Pleader Sr.73301

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