



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

CORAM:

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

W.A.(MD).No.149 of 2015

and

M.P.(MD)No.1 of 2015

The Special Officer (Now President),
R1593 Pugalur Primary Agricultural Co-op. Bank,
Pugalur at Velayuthampalayam,
Karur District.

.. Appellant/2nd respondent

Vs.

1.S.Ramasamy

..1st respondent/Writ Petitioner

2.The Joint Registrar of Co-op. Societies,
Trichy Region, Trichy,
Trichy District.

:2nd respondent/1st respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Appeal against the order, dated 28.04.2014, made in W.P.(MD) No.10840 of 2010 on the file of this Court.

Prayer in WP(MD). 10840/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings No. Nil, dated 24.02.2009 which was confirmed by the 1st respondent in his proceedings Revision No.11088/09/Sa.Pa, dated 23.04.2010 and quash the same and consequently direct the respondents to reinstate the petitioner into service as Secretary in the 2nd respondent bank with all backwages and other benefits.

For Appellant : Mr.G.R.Swaminathan

for Mr.K.Balasubramani

For 1st respondent : Mr.C.Venkatesh Kumar,

for M/s.Ajmal Associates.

For 2nd respondent : Mr.A.K.Baskara Pandian,

Special Government Pleader.

JUDGMENT

<https://hcservices.ecourts.gov.in/hcservices/> [Judgment of the Court was made by
The Hon'ble The Chief Justice]

Admit.



2.Learned counsel for the respondents accept notice. At the request of the learned counsel for the parties, the appeal is taken up for final disposal.

3.The sole ground considered in the impugned order for setting aside the enquiry report is non-payment of subsistence allowance during the process of the enquiry. The enquiry was arising from the allegation against the 1st respondent of misappropriation of Rs.8,31,285/-, by not disbursing the sanctioned loan amount to the eligible persons.

4.Learned counsel for the appellant submits that the first respondent did not participate in the enquiry and no prejudice has been shown. He, however, submits that the appellant is agreeable to holding enquiry afresh, in pursuance of the show cause notice, whereupon the first respondent can also get full opportunity of defence. The aforesaid course of action is acceptable to the first respondent.

5.We are of the view that it would be appropriate to order fresh enquiry to test even the seriousness of the allegations against the respondents, which must be either proved or disproved. We thus set aside the impugned order as well as the domestic enquiry, with a direction to commence the enquiry pursuant to the show cause notice and the reply filed by the first respondent before the enquiry officer, afresh, giving opportunity to the respondent No.1 to cross examine the witnesses.

6.The first respondent will cooperate with the enquiry officer and an endeavour be made to conclude the enquiry within three months from the date of receipt of the order. Subsistence allowance will be paid within four weeks. We may notice that the first respondent has retired in the year 2009 itself and that the retirement is of-course subject to the result of the enquiry.

7.The appeal is allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To
The Joint Registrar of Co-op. Societies,
Trichy Region, Trichy, Trichy District.

+1cc to M/s.Ajmal Associates, in SR.79147

+1cc to M/s.K.Balasubramani, Advocate in SR.79207