



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.11428 of 2014
and
M.P(MD)No.1 of 2014

R.Chandrasekaran

... Petitioner

vs.

1)The Deputy Registrar of Co-operative Societies,
Marthandapuram,
Pudukkottai-622 001.

2)The Special Officer,
23, Velanoor Primary Agricultural
Co-operative Credit Society,
Velanoor,
Pudukkottai District-622 501.

3)The President,
23, Velanoor Primary Agricultural
Co-operative Credit Society,
Velanoor,
Pudukkottai District-622 501.

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with the impugned order of dismissal from service passed by him his proceedings No.Nil dated 22.03.2013 and quash the same as illegal and arbitrary and consequently direct the respondents to reinstate the petitioner with all service and monetary benefits.

For Petitioner	: Mr.D.Selvam for Mr.G.Thalaimutharasu
For R1	: Mr.T.R.Janarthanam, Additional Government Pleader
For R3	: Mrs.S.Bharathi, Government Advocate
For R2	: No appearance

ORDER

R.Chandrasekaran who was working as a Secretary in the respondents Co-operative Society was dismissed from service by order 22.03.2013 of the 2nd respondent. Aggrieved by the said dismissal, he has filed this writ petition, to quash the same with a consequential direction to the respondents to reinstate him with all service and monetary benefits.



2. Learned counsel for the petitioner raised three grounds assailing the correctness of the impugned order. Firstly, it was contended that when the petitioner was issued with a charge memo dated 13.06.2012 containing seven charges, all the charges have been framed based on a report of the enquiry officer under Section 81 of the Tamil Nadu Co-operative Societies Act, therefore, when the disciplinary authority has framed charges against the petitioner based on a report under Section 81 of the Act, a copy of the said report ought to have been furnished to the petitioner to submit his detailed representation to the charges. But in the present case, it is pleaded that without even giving a copy of the report filed under Section 81 of the Act, the enquiry officer proceeded with the enquiry, ignoring the repeated requisition made by the petitioner for furnishing the same, so that he will be able to make an effective reply.

3. Secondly, drawing the notice of this Court to the second show cause notice dated 28.12.2012 issued by the 2nd respondent, learned counsel for the petitioner further submitted that even in the said show cause notice also, the 2nd respondent has clearly admitted that copy of the report filed under Section 81 was not given to the petitioner.

4. Lastly, relying on letter issued by the 1st respondent to the 2nd respondent dated 10.05.2012 mentioning that the charge memo has been framed and issued against the petitioner based on a report filed under Section 81 of the Act, learned counsel for the petitioner heavily contended that when it is amply proved by the petitioner that the entire charges levelled against the petitioner in the charge memo dated 13.06.2012 are originated only on the basis of a report filed under Section 81 of the Act, the respondents cannot resort to the extreme penalty namely, removal from service, when the basic document that has been treated as a foundation for framing charges, has been denied to the petitioner thereby putting him in total darkness, as a result, there has been a flagrant violation of the principles of natural justice, hence, the impugned order, he pleaded, is liable to be set aside.

5. Mr. T.R. Janarthanam, learned Additional Government Pleader appearing for the 1st respondent fairly conceding to the contentions made by the learned counsel for the petitioner submitted that copy of the report filed under Section 81 of the Act, which has been considered as a basic document for framing charges against the petitioner, having not been issued to the petitioner, the order of dismissal passed against the petitioner can be set aside, however, the matter may be remanded to the 3rd respondent for fresh disposal.

6. Mrs. S. Bharathi, learned Government Advocate appearing for the 3rd respondent although heavily supported that copy of the report of the enquiry officer, on completion of the enquiry on all charges, was issued to the petitioner, there is no record to show that copy

of the report filed under Section 81 of the Act, was served to the petitioner.

7. This Court finds merit on the submissions of the learned counsel for the petitioner. Although a copy of the report of the domestic enquiry was given to the petitioner, there is no record available to show that copy of the report of the enquiry officer filed under Section 81 of the Act was furnished to the petitioner, therefore, when the communication issued by the 1st respondent to the 2nd respondent is to the effect that charges have been framed against the petitioner based on a report filed under Section 81 of the Act, copy of the report filed under Section 81, which is the basic document that has given rise to framing of 7 charges against the petitioner having not been served upon the petitioner, the entire disciplinary proceedings initiated against the petitioner has to fall to ground, on the ground that the domestic enquiry is fully vitiated for not furnishing the copy of the report of the enquiry officer filed under Section 81.

8. Accordingly, the writ petition stands allowed and the impugned order is set aside, however, it is open to the respondents to furnish a copy of the report filed under Section 81 to the petitioner and then proceed if so advised. Needless to mention that the petitioner shall be reinstated in service. No costs. M.P(MD) No.1 of 2014 is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1) The Deputy Registrar of Co-operative Societies,
Marthandapuram, Pudukkottai-622 001.

2) The Special Officer,
23, Velanoor Primary Agricultural Co-operative Credit Society,
Velanoor, Pudukkottai District-622 501.

+1 cc to M/s.G.Thalaimutharasu, Advocate in SR.No.37491
+1 cc to The Special Government Pleader in SR.No. 37589

nbi

CSL/AAL-MPA/SAR-III/01.08.2016 :3P/5C

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