

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10839 of 2015

K.M.Meeran Sherif

.. Petitioner

vs.

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

2.The President,
C.2513, Kandili Primary Agricultural
Co-operative Society,
Kandili Post,
Tirupattur Taluk,
Vellore District.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.5560/2014/A2 dated 18.7.2014 and subsequent proceedings in Na.Ka.6346/2014/A2 dated 14.8.2014 and to quash the same and consequently directing the first respondent to pass appropriate orders on the Revision Petition filed by the petitioner dated 4.7.2014 on merits and to direct the second respondent to make the payment of remaining retirement benefits payable to the petitioner as on date on 31.10.2006 along with interest for the belated payment.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader (Co-op.).

O R D E R

The order of rejection dated 18.7.2014 is under challenge in this writ petition.

2. The writ petitioner was initially appointed as a Clerk in the Kandili Primary Agricultural Co-operative Credit Society, Tirupattur Taluk, Vellore District on 1.8.1969. Thereafter, the writ petitioner was promoted to the post of Assistant Manager and further promoted to the post of Manager on 1.3.1991. The writ petitioner was placed under suspension on 1.4.1998 and a charge memo was issued on 30.4.1998 with regard to certain alleged irregularities committed by the writ petitioner. The writ petitioner was dismissed from service on 20.7.1999. The Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act, was filed by the writ petitioner before the first respondent was considered and an order was passed on 24.7.2001, setting aside the order of dismissal from service and modified the order of punishment as one of stoppage of increment for a period of two years was issued. Consequently, the writ petitioner was reinstated into service on 27.7.2001.

3. Meanwhile, the criminal case registered against the writ petitioner was ended with an order of acquittal in C.C.No.4 of 1999 on the file the learned Judicial Magistrate No.II Court at Vellore. Based on the

order of acquittal, the writ petitioner filed the Revision Petition before the first respondent, seeking service benefits in all respects since he was acquitted.

4. The first respondent, instead of dealing with the application on merits, rejected the same on the ground that there is no order has been passed by the Co-operative Society and accordingly, no Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act, needs to be entertained.

5. The stand taken by the first respondent is directly in contravention with the spirit of the provisions contemplated under Section 153 of the Tamil Nadu Co-operative Societies Act. Section 153 of the Act, enumerates that the Registrar may of his own motion or on application, call for and examine the record of any Officer subordinate to him or of the Board or any Officer of a Registered Society or of the Competent Authority constituted under sub-section (3) of Section 75 and the Government may, of their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the rules or the by-laws not being a proceedings in respect of which an appeal to the Tribunal is provided by sub-section (1) of Section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision

passed or order made therein; and, if, in any case., it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly. Provided that every application to the Registrar or the Government for the exercise of the powers under this section be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant. (2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation. (3) The Registrar or the Government, as the case may be, may suspend the execution of the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof. (4) The Registrar or the Government may award costs in any proceedings under this section to be paid either out of the funds of the society or by such part to the application for revision as the Registrar or the Government may deem fit.

6. On reading of the entire provisions, it is unambiguous that even in the absence of any order passed by the Joint Registrar of Co-operative Societies, may call for the records on his own motion or on application and decide the matter on merits and in accordance with law.

7. Such being the spirit of the provisions enacted under the

Tamil Nadu Co-operative Societies Act, there is no reason to reject the application filed by the writ petitioner, claiming service benefits. Thus, this Court is of the view that rejection of the Revision Petition filed by the writ petitioner is directly inconsistent with the spirit of the provisions enacted under Section 153 of the Tamil Nadu Co-operative Societies Act.

8. Accordingly, the order impugned in this writ petition passed by the first respondent in proceedings Na.Ka.No.5560/2014/A2 dated 18.7.2014 is quashed and the first respondent is directed to receive the application from the writ petitioner and decide the same on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition stands allowed. However, there shall be no order as to costs.

07-08-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

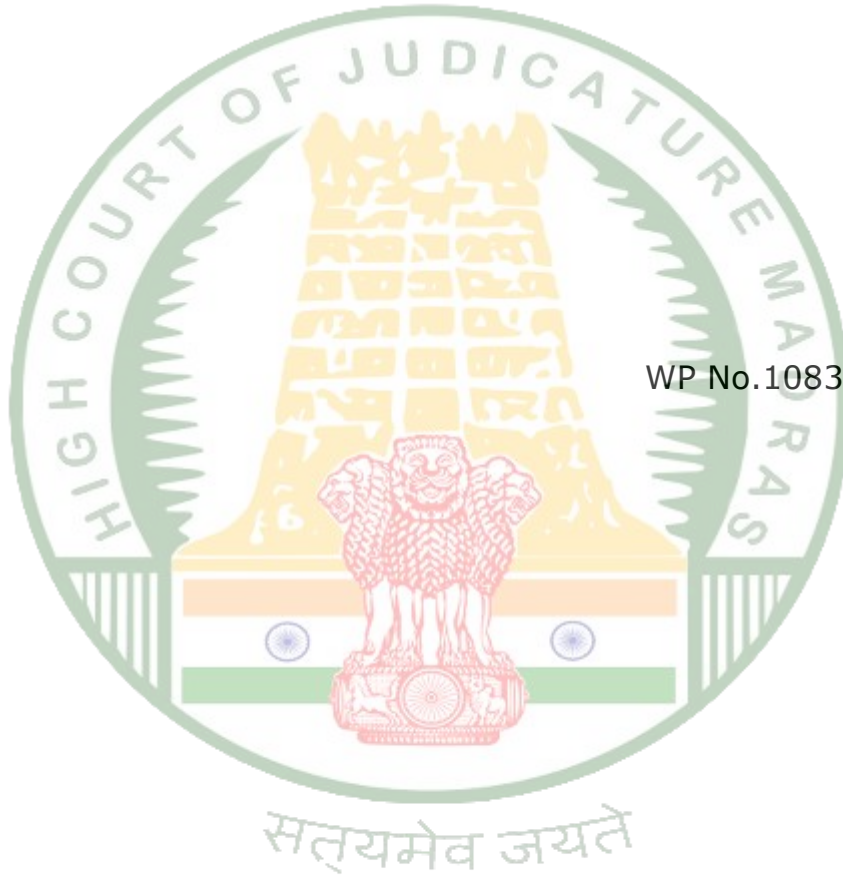
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To

The Joint Registrar of Co-operative Societies,
Vellore Region,
Vellore.

S.M.SUBRAMANIAM, J.

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