

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.2176 of 2017 &

W.M.P.No.2152 of 2017

S.Seenuvasan

... Petitioner

Vs

- 1 The Deputy Registrar
Agricultural Co-operative Credit Society Ltd.
Cheyyar Circle Cheyyar
Thiruvannamalai District.
 - 2 The President
V.L.Spl.(Special) No.83 Eranthan Primary-
Agricultural Co-operative Credit Society Ltd.
Thellur Post, Arni Taluk
Thiruvannamalai District.
 - 3 The Authorized Officer
V.L.Spl.(Special) No.44, S.V. Nallur Primary-
Agricultural Co-operative Credit Society Ltd.
School Street, Arani
Thiruvannamalai District.
 - 4 The Inspector of Police
Vigilance and anti Corruption Department
Thiruvannamalai District.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, call for the records relevant to the order passed by the 2nd respondent dated 28-09-2016 and quash the same as illegal, improper, unreasonable, arbitrary against the principles of natural justice and thereby direct the 2nd respondent to reinstate the petitioner into his service with effect from 28-09-2016 with all back wages by considering his representation dated 31.12.2016.

For Petitioner : Mr.A.Rajesh Kanna
For Respondents : Mr.L.P.Shanmuga Sundaram
Spl. Govt. Pleader (Co-op.)
for R1 to R3
Mr.K.Dhananjayan
Spl. Govt. Pleader - for R4

ORDER

By consent, the writ petition is taken up for final disposal. Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader, accepts notice on behalf of the respondents 1 to 3 and Mr.K.Dhananjayan, learned Special Government Pleader, accepts notice on behalf of the 4th respondent.

2 The petitioner, who was working as Assistant Secretary of V.L.Spl.(Special) No.83, Eranthan Primary Agricultural Co-operative Credit Society Ltd., Thellur Post, Arni Taluk, Thiruvannamalai District, said to have demanded and accepted illegal gratification from a member of the Society viz., Murugan and then at the time of making payment, on the basis of the complaint given by the defacto complainant, the Vigilance and Anti Corruption Department, has registered a case in Crime No.6 of 2016 on 27.09.2016 under Section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. Later on, the trap was successful. The petitioner was arrested on 28.09.2016 and section was also altered and thereafter, he came out on bail vide order dated 13.10.2016 in CrI.M.P.No.449 of 2016 on the file of the learned Special Judge and Chief Judicial Magistrate, Tiruvannamalai. The petitioner, vide impugned order dated 28.09.2016 was also placed under suspension. The grievance now expressed by the petitioner is that though three months have lapsed, charge memo is yet to be issued. The learned counsel for the petitioner would submit that in the light of the decision rendered by the Honourable Supreme Court in AJAY KUMAR CHOUDHARY V. UNION OF INDIA THROUGH ITS SECRETARY AND ANOTHER reported in (2015) 7 SCC 291, the order of suspension having been passed is liable to be revoked and therefore, prays for appropriate orders.

3. Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the petitioner has involved himself in the offence of moral turpitude and he was in incarceration for more than 48 hours. Taking into account the serious allegations levelled against the petitioner, the Transport Corporation has placed him

under suspension and simultaneously criminal proceedings has also been launched against him. There is some delay in issuing the charge memo and the charge memo will be issued to the petitioner very soon and prays for dismissal of the writ petition.

4. This Court has carefully considered the rival submissions and perused the material placed on it.

5 The Hon'ble Supreme Court of India, in the above cited Judgment has held that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension.

6. The Personnel and Administrative Reforms Department, Government of Tamil Nadu, has also taken note of the said Judgment and also issued Administrative instructions in letter Ms.No.43/N/15-3 dated 26.04.2016 as to the steps to be followed in such cases.

7. Though the petitioner has prayed for the larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, directs the 2nd respondent to consider the petitioner's representation dated 31.12.2016, in the light of the above cited decision as well as the administrative instructions, and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8 The writ petition stands disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 The Deputy Registrar
Agricultural Co-operative Credit Society Ltd.
Cheyyar Circle Cheyyar
Thiruvannamalai District.
 - 2 The President
V.L.Spl.(Special) No.83 Eranthan Primary-
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Agricultural Co-operative Credit Society Ltd.
School Street, Arani
Thiruvannamalai District.
 - 4 The Inspector of Police
Vigilance and anti Corruption Department
Thiruvannamalai District.
- +1cc to Mr.A. Rajesh Kumar, Advocate, S.R.No.5892
+1cc to Mr. L.P. Shanmugasundaram, Advocate Sr.No.5983
+1 cc to Govt., Pleader, Sr.No.6251
- rk(CO)
md(15/02/2017)

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