

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13640 of 2014

and

M.P.No.1 of 2014

S.Thangadurai

..Petitioner

vs

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

2.The President,
E.2683, Palayankottai Primary Agricultural
Cooperative Credit Society,
Vanniyar Street, Palayankottai & Post,
Kattumannarkoil Taluk,
Cuddalore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.4145/2013, Thu.Va.Tha-1, dated 23.04.2014 and quash the same and consequently direct the respondents to reinstate the petitioner into service as Salesman in the 2nd respondent society with all attendant benefits and other monetary benefits including the service seniority.

For Petitioner : M/s.C.Prakasam

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

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O R D E R

The order of the 1st respondent dated 23.04.2014 is sought to be quashed in this writ petition and further, a direction is sought for to reinstate the petitioner into service as Salesman in the 2nd respondent Society with all attendant benefits.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was appointed as Salesman in the 2nd respondent Society on 30.06.1998 and he was placed

under suspension on account of initiation of disciplinary proceedings against him on 10.08.2011. A charge memo was issued against the writ petitioner in proceedings dated 06.10.2011. The charges against the writ petitioner is that he has committed an act of dereliction of duty and further, there is a stock deficit to the tune of Rs.2,55,395/- (Rupees Two Lakhs Fifty Five Thousand and Three Hundred Ninety Five Only) and further, there is an allegation of double billing in respect of distribution of essential commodities to the family card holders. In this regard, an enquiry was conducted against the writ petitioner and the enquiry officer submitted a representation holding that all the charges against the writ petitioner were proved. Based on the enquiry report, the writ petitioner was terminated from service by the 2nd respondent in proceedings dated 03.08.2013. Challenging the order of termination passed by the 2nd respondent Management, the writ petitioner preferred a Revision Petition under Section 153 of the Tamil Nadu Cooperative Societies Act before the 1st respondent. The 1st respondent rejected the Revision Petition in proceedings dated 23.04.2014. However, the order of rejection alone is under challenge in this writ petition.

3.The learned counsel for the writ petitioner made a submission that even in the order of revision passed by the 1st respondent, it is clearly stated that in respect of the writ petitioner, there was no stock deficit and the statement in this regard was submitted by the 2nd respondent Management before the 1st respondent, while submitting counter statement in the revision petition. In other words, the 2nd respondent Management admitted the fact that there was no stock deficit in respect of the writ petitioner, while he was functioning as the Salesman in this regard.

4.The learned Special Government Pleader appearing on behalf of the respondents made a statement that in the very same order passed by the Revisional authority, it is further stated that during the enquiry held on 16.12.2013, the recovery due in respect of the writ petitioner was Rs.55,930.56 and the writ petitioner had not denied the same. This Court is of the view that the original charge memo was issued against the writ petitioner regarding the deficit of stock to the tune of Rs.2,55,395.50. However, in the order passed by the Revisional authority, it is stated that the amount due to be recovered from the writ petitioner was Rs.55,930.56. There are certain discrepancies even in relation to the amount to be recovered from the writ petitioner regarding the misconduct of deficit of stock committed by the writ petitioner. In view of these discrepancies even in the order passed by the Revisional authority, it is necessary to remand back the matter for fresh adjudication in respect of the correct facts and the truth in relation to the deficit of stock and the amounts to be recovered

from the writ petitioner in accordance with law. The order passed by the Revisional Authority is not clear in respect of these facts.

5.Thus, there is a doubt in relation to the amounts to be recovered from the writ petitioner and the mistake committed by the writ petitioner in this regard. Under these circumstances, it is preferable to remand the matter back for fresh consideration based on the documents and records available with the respondents. Accordingly, the order passed by the 1st respondent under Section 153 of the Tamil Nadu Cooperative Societies Act in proceedings dated 23.04.2014 alone is set aside and the matter is remanded back to the 1st respondent to consider the Revision petition filed by the writ petitioner under Section 153 of the Tamil Nadu Cooperative Societies Act, by verifying all the records available with the 2nd respondent society and pass appropriate orders on merits and in accordance with law and by affording opportunity to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

6.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

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

- + 1 cc to M/s.C.Prakasam Advocate,SR.78797
- + 1 cc to Mr.L.P.Shanmugasundaram, Advocate,SR.78709
- + 1 cc to The Govt.Pleader, SR.78588

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NR 28/11/2017