

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-11-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23201 of 2017

And

W.M.P.No.24318 of 2017

K.Karthikeyan

Petitioner

-vs-

1.The Joint Registrar of Co-operative Society,
Office of the Joint Registrar of Co-operative
Society,
Master Plan Complex,
Collectorate,
Villupuram.

2.The Registrar of Co-operative Societies,
NVN Maligai,
Kilpauk,
Chennai-600 010.

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent orders made in Rc.No.3149/2008/EM dated 11.8.2017 and that of the consequential order made in Rc.No.3149/2008/EM dated 28.8.2017, quash the same and consequently direct the respondents to permit the petitioner to retire peacefully with all accrued service benefits thereto. [Prayer amended as per order of Court made in WMP No.25353 of 2017 in WP 23201 of 2017 dated 2.11.2017].

For Petitioner - Mr.L.Chandrakumar

For Respondents - Mr.K.Venkataramani,
Additional Advocate General-VII
Assisted by Mr.L.P.Shanmugasundaram,
Special Government Pleader (Co-op.).

ORDER

The relief sought for in this writ petition is to quash the order of punishment imposed on the writ petitioner by the first respondent in proceedings dated 11.8.2017.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the writ petitioner was appointed as a Temporary Junior Inspector of Co-operative Societies and his services were subsequently regularised. The writ petitioner was promoted to the post of Senior Inspector of Co-operative Societies. Before attaining the age of superannuation on 31.8.2017, the major penalty of dismissal from service was imposed on the writ petitioner in proceedings dated 28.8.2017. The penalty of dismissal from service was imposed by the Competent Authority in exercise of the powers conferred under Rule 17(c)(i) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, since the petitioner was convicted in a criminal case.

3. The learned counsel, appearing on behalf of the writ petitioner, states that the issue in the present writ petition squarely covered under the judgment of the Hon'ble Division Bench of this Court rendered in the case of D.Narayanan vs. District Revenue Officer, Virudhunagar, Virudhunagar District and Others {WP No.28847 of 2004 decided on 17.2.2009}, the relevant paragraphs 26 and 27 are extracted hereunder:-

"26. A question may crop up that even after a person is subjected to some insignificant punishment in a departmental enquiry, he may be imprisoned after being convicted in a criminal case based on similar set of allegations and, in such circumstances, whether it would be in the interest of administration to allow such person to continue in service. We do not think that the State or the department is remediless in such a situation. If a person, on account of his conviction is imprisoned and remains absent from service, he can always be penalised for remaining absent from duty. Even otherwise, a departmental authority or the State Government for that matter can always review the punishment by following the procedure contemplated under relevant service rules by altering the initial punishment to some higher punishment.

27. In the present case, the disciplinary authority himself has imposed the second punishment on the basis of the very same allegation of temporary misappropriation. Such order of the disciplinary authority cannot be considered as an exercise of power of review of punishment, inasmuch as such punishment has been imposed beyond the period of limitation contemplated under the relevant service rules."

4. In view of the judgment of the Hon'ble Division Bench, this Court is of the opinion that the case of the writ petitioner also to be reconsidered by the Competent Authorities. Accordingly the order of punishment imposed on the writ petitioner in proceedings Rc No.3149/2008/EM dated 11.8.2017 is quashed and the matter is remitted back to the respondents for reconsideration and for passing final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

5. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Joint Registrar of Co-operative Society,
Office of the Joint Registrar of Co-operative
Society,
Master Plan Complex,
Collectorate,
Villupuram.

2.The Registrar of Co-operative Societies,
NVN Maligai,
Kilpauk,
Chennai-600 010.

+1 cc to Mr.L.Chandrakumar Advocate sr 84633
+1 cc to Govt Pleader sr 85667

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