

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 32336 of 2016

S.Govindaraju

.. Petitioner

..Vs..

1. The Deputy Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
2. The Additional Registrar of Co-op. Societies,
(Marketing, Planning and Development),
Kilpauk, Chennai - 600 010.
3. The Joint Registrar / Chairman,
Common Cadre Committee,
Cuddalore Region, Cuddalore.
4. The President,
E 2600, T.Nduncheri Primary Agricultural
Co-operative Credit Society,
Sivakkam
Perunkalur Post,
Kattumannarkoil Taluk,
Cuddalore District

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relationg to the order made in Letter No.11031/CN2/2016, dated 01.08.2016 on the file of the first respondent herein and quash the same and consequently direct the first respondent to pass orders on merits in the revision petition filed by the petitioner dated 20.06.2016.

For Petitioner : Mr.C.Munusamy

For Respondents : Mr.L.P.Shanmugasundaram
Spl.Govt.Pleader

O R D E R

The petitioner seeks for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order made in Letter No.11031/CN2/2016, dated 01.08.2016 on the file of the first respondent herein and quash the same and consequently direct the first respondent to pass orders on merits in the revision petition filed by the petitioner dated 20.06.2016.

2. According to the learned counsel for the petitioner, the third respondent has passed an order in Na.Ka.No.1022/2005 nu dated 03.05.2013, by which punishment was imposed upon the petitioner, by reducing the basic pay to Rs.5,650/- from Rs.10,175/-. Hence, the petitioner filed a revision before the second respondent against the punishment imposed by the third respondent. The second respondent has passed orders on 13.10.2015 confirming the punishment order passed by the third respondent. The aforesaid order was served on the petitioner on 17.12.2015. As against the said order, the petitioner also filed revision under Section 153 of Tamil Nadu Co-operative Societies Act before the third respondent on 17.02.2016 and the same was served on the petitioner on 12.04.2016. Thereafter, the petitioner filed revision before the first respondent on 20.06.2016. The first respondent has rejected the petitioner's revision petition on the ground of delay. Hence, the petitioner filed the present Writ Petition before this Court.

3.The learned Special Government Pleader appearing for the respondents would submit that the petitioner has filed the revision petition under Section 153 of the said Act before the third respondent on 17.02.2016 who is not a competent authority to decide the same. Therefore, the petitioner approached the wrong forum against the order passed by the second respondent.

4.Heard the rival submissions made by both the parties. It is admitted fact that the petitioner has filed the revision before the first respondent, challenging the order dated 13.10.2015 passed by the third respondent. It is seen from the records that the petitioner has wrongly approached the third respondent by filing revision under Section 153 of Tamil Nadu Co-operative Societies Act. After the third respondent rejected the said application, the petitioner has to file the present revision petition before the first respondent who is the competent authority to entertain the revision petition. The said fact has not been considered by the first respondent and the said revision petition has been rejected on the ground that it is barred by limitation.

5.The learned counsel for the petitioner also relied on a decision of this Court in the case of N.P.Palanisamy Vs. State of Tamil Nadu reported in 2012 (4) CTC 257 and it is useful to extract the relevant portion which reads as follows:-

"26. From the above judgment, it is crystal clear that an employee of a co-operative society has got remedies available both under the provision of the Tamil Nadu Co-operative Societies Act as well as under the Industrial Disputes Act. In a given case, suppose, an employee who has got both remedies available for him approaches the Labour Court by raising an industrial dispute regarding his termination from service, under the Industrial Disputes Act, there is no limitation and therefore, he can raise the dispute within a reasonable time. If for any reason, he choses to file a Revision under Section 153 of the Act, belatedly, it cannot be said that his remedy is barred by limitation. It cannot be said that while enacting Section 153 of the Act, the legislature was unaware of the provisions of the Industrial Disputes Act. Where there is no period of limitation for an employee to raise an industrial dispute, I am firm in my view that there shall be no such period of limitation for him to file a Revision under the Co-operative Societies Act. Therefore, if we read Section 153 of the Act, in the context of the remedies available under the Industrial Disputes Act, it will surely give the impression that what is contained in the proviso to Section 153 of the Act, is not at all mandatory and it is only directory.

34. In this case, according to the petitioner, on a wrong advice given, he approached the Labour Officer for conciliation. The matter was pending before the Labour Officer for quite a long time. Atlast, the conciliation failed. It was thereafter only, he was advised to file Revision. Though the Revision was filed nearly after two years of the passing of the impugned order, there are justifiable reasons to accept the explanation by the petitioner for the said delay. Therefore, going by the facts and circumstances of the case, I am of the view that it cannot be said that the Revision has not been filed within the reasonable time. Thus, factually also, the respondent has got no case.

36. In the result, the Writ Petition is allowed, the impugned order of the second respondent is set aside and the revision is remanded back to the file of the second respondent who shall entertain the revision, afford sufficient opportunity to both parties including personal hearing and then, pass final order within a period of three months from the date of receipt of a copy of this order. No costs.

6. As far as the present case is concerned, the petitioner has approached the wrong forum and the said revision was rejected. The present revision has been filed within 90 days time after the rejection order passed by the third respondent, namely the Joint Registrar/Chairman, Common Cadre Committee, Cuddalore Region, Cuddalore. Since the third respondent has no jurisdiction to entertain the revision under proviso to Section 153(1) of the Act, the interim order passed by the first respondent is quashed and the revision is remanded back to the first respondent and the first respondent is directed to consider the revision on merits and in accordance with law by affording an opportunity of hearing to both the parties and dispose of the revision petition within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is allowed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

- 1.The Deputy Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
- 2.The Additional Registrar of Co-op. Societies,
(Marketing, Planning and Development),
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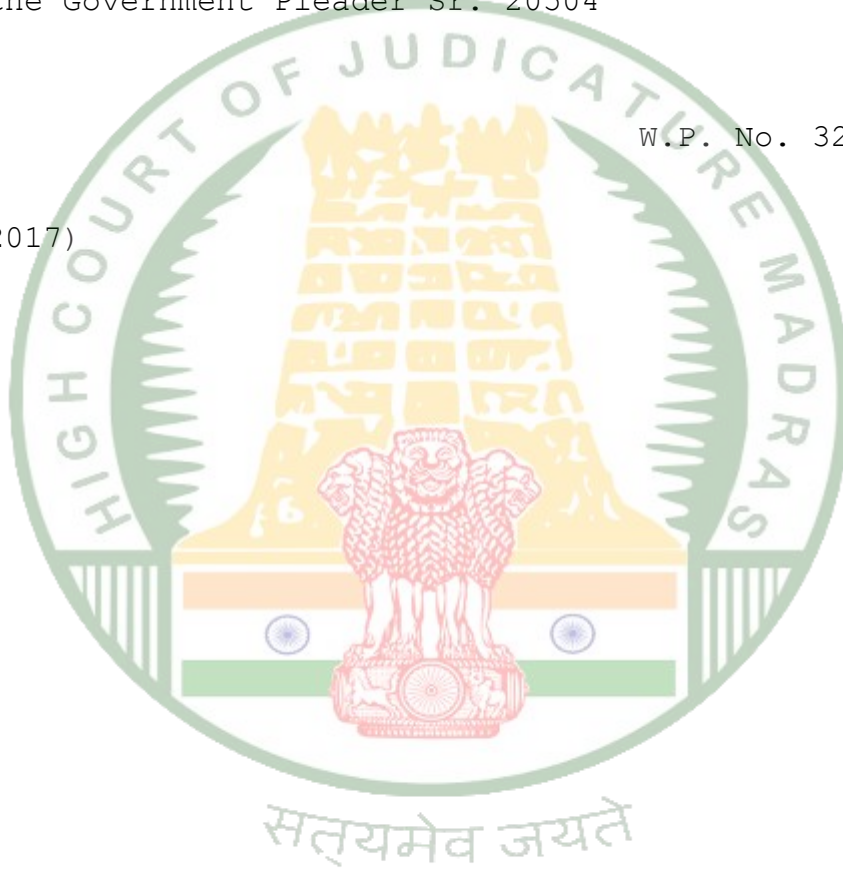
+1cc to M/S. L.P. Shanmugasundaram, Advocate Sr. 19828

+1cc to M/S. C. Munusamy, Advocate Sr. 19711

+2ccs to the Government Pleader Sr. 20504

W.P. No. 32336 of 2016

NR II (CO)
VR(19/04/2017)



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