



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Eighth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice T.S.SIVAGNANAM
and
The Hon`ble Mr.Justice P.VELMURUGAN

REV.APLC(MD) No.184 of 2017
IN WA(MD)NO.539 OF 2016

THE PRESIDENT,
(THE ADMINISTRATIVE OFFICER)
R.1598 THALAVAPALAYAM PRIMAY AGRICULTURAL
CO-OPERATIVE CREDIT SOCIETY LTD.,
THALAVAPALAYAM POST,
MANMANGALAM TALUK,
KARUR DISTRICT

... REVIEW APPLICANT/3RD APPELLANT

Vs

1 M.SUBBURAYAN, SECRETARY (IN-CHARGE)
(RETD), R-1598, THALAVAPALAYAM PRIMARY AGRICULTURAL
CO-OP CRIEDIT SOCIETY,
THALAVAPALAYAM POST,
MANMANGALAM TALUK,
KARUR DISTRICT.

...1ST RESPONDENT/1ST RESPONDENT

2 THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES/
ADDITIONAL BUILDING DISTRICT COLLECTORATE COMPLEX,
THANTHONIMALAI, KARUR DISTRICT ...2ND RESPONDENT/1ST APPELLANT

3 THE DEPUTY REGISTRAR
CO-OPERATIVE SOCIETIES,
ADDITIONAL BUILDING,
DISTRICT COLLECTORATE COMPLEX,
THANTHONIMALAI, KARUR DISTRICT. ...3RD RESPONDENT/2ND APPELLANT

4 THE ENQUIRY OFFICER,
R-1598, THALAVAPALAYAM PRIMARY AGRICULTURAL
CO-OPERATIVE CRIEDIT SOCIETY,
THALAVAPALAYAM POST,
MANMANGALAM TALUK,
KARUR DISTRICT. ... 4TH RESPONDENT/4TH APPELLANT

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be
pleased to prefer this Memorandum of Review Application against
the order Dt.28.6.2017 passed in W.A.No.539/2016 by the
Honourable Court.



Prayer in WA(MD). 539/ 2016 :

Writ Appeal is filed under Section 15 of the Letters Patent Act, praying to set aside the order passed by this Hon'ble Court in W.P(MD) No.2289 of 2015, dated 04.01.2016 and allow the same.

WEB COPY

Prayer in WP(MD)No.2289/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of writ calling for the records relating to the impugned charge memo issued by the 3rd respondent in his proceedings No.Nil dated 22.4.13 and quash the same as illegal.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.SEENIVASAGAM, Advocate for the petitioner the court made the following order:-

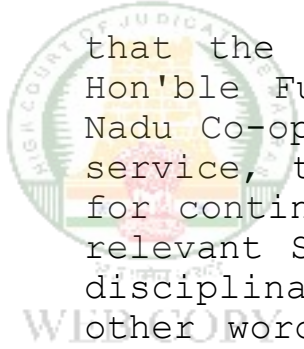
[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.S.Seenivasagam, learned counsel for the petitioner Society, which was the 3rd appellant in W.A.(MD).No.539 of 2016. The said writ appeal was filed by the Joint Registrar of Co-operative Societies, Karur, the Deputy Registrar of Co-operative Societies, Karur, the petitioner Society and the Enquiry Officer and there were four appellants and the said appeal was directed against the common order in W.P.(MD). Nos.2289 and 20098 of 2015 dated 04.10.2016.

2.The question which was raised before the Writ Court was whether the respondent/writ petitioner can be proceeded with departmentally, after he attained the age of superannuation. The learned Single Judge took into consideration the decision of the Full Bench in the case of **S.Andiyannan Vs. The Joint Registrar, Co-operative Societies, Madurai reported in 2015 (4) CTC 1** and another unreported decision in W.P.No.10007 of 2015 dated 27.04.2015 and allowed the writ petition thereby quashing the charge memo and directing the petitioner Society to settle the gratuity, provident fund and earned leave encashment benefit within a stipulated period. The appellants filed appeal against the said common order and in the grounds of appeal, they had stated that the decision in *Andiyannan* case will not be applicable to the facts of the case, since there is a provision under the Tamil Nadu Co-operative Societies Act viz., Section 87.

<https://hcservices.ecourts.gov.in/hcservices/>

3.We considered the submissions on either side and found



that the matter is squarely covered by the decision of the Hon'ble Full Bench wherein it was held that under the Tamil Nadu Co-operative Societies Act, once an Employee retired from service, there could be no authority vested with the Employer for continuing any disciplinary proceedings, in the absence of relevant Service Rules permitting the Employer to continue the disciplinary proceeding. It was further pointed out that in other words, if there is no Service Rules or Bye-law of the Society empowering the Employer to continue the Department Proceeding, the Employer, would have no authority to continue the departmental proceeding after the retirement of the Employee.

5.The learned counsel for the petitioner would contend that the mistake lies with the petitioner in not placing before this Court that in the Special Bye-laws of the petitioner Society, there is a specific provision which empowers continuation of disciplinary proceedings beyond the age of superannuation and an Employee who has been kept in under suspension will not be allowed to retire on attaining the age of superannuation and his suspension was deemed to have been extended till the disposal of the disciplinary proceedings.

6.In this regard, the learned counsel invited the attention of this Court to Bye-law No.31(4) of the Special Bye-laws. Thus, the mistake lies with the appellant Society not placing the appropriate Bye-law which was in existence and the question would be if such Bye-law was in existence, then can it be said that review petitioner Society cannot continue the disciplinary proceeding. This question would answered by us after the respondents enter appearance.

7.In the light of the above reasoning, we find that the petitioner has made out a *prima facie* case for grant of interim order. Accordingly, there will be an order of Interim Stay. Notice to the respondents through Court and privately returnable in three weeks. The learned counsel for the petitioner is permitted to serve the counsel for the 1st respondent as well as the learned Special Government Pleader for the respondents 2 to 4.

8.List the matter on 30.11.2017.

sd/-
08/11/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

- 1 THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES/
ADDITIONAL BUILDING DISTRICT COLLECTORATE COMPLEX,
THANTHONIMALAI, KARUR DISTRICT
- 2 THE DEPUTY REGISTRAR, CO-OPERATIVE SOCIETIES,
ADDITIONAL BUILDING, DISTRICT COLLECTORATE COMPLEX,
THANTHONIMALAI, KARUR DISTRICT.
- 3 THE ENQUIRY OFFICER,
R-1598, THALAVAPALAYAM PRIMARY AGRICULTURAL
CO-OPERATIVE CREDIT SOCIETY,
THALAVAPALAYAM POST, MANMANGALAM TALUK,
KARUR DISTRICT.

GJM/RR/SAR-2-21.11.2017-4P-4C

ORDER

IN

REV.APLC(MD) No.184 of 2017

IN WA(MD) NO.539 OF 2016

Date :08/11/2017