



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.2908 of 2017

and

W.M.P.No.2357 of 2017

V.Sundaravel

...Petitioner

Vs.

1. The principal Secretary
to Government of Tamil Nadu,
Cooperative, Food and Consumer
Protection Department,
Fort St.George,
Chennai-09.

2. The Deputy Secretary,
Cooperative, Food and Consumer
Protection Department,
Fort St. George,
Chennai-09.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned order in Letter No.22113/CN2/2016-1, dated 18.01.2017 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to condone the delay in filing Revision Petition Under Section 153 of Tamil Nadu Co-operative Societies Act and dispose the Revision Petition within a time frame as fixed by this Honble Court.

For Petitioner : Mr.S.Karthick Subramanian

For Respondents : Mr.J.Gunaseelan Muthaiah,
Government Advocate.

**ORDER**

This Writ Petition has been filed by the petitioner for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned order dated 18.01.2017, passed by the second respondent and quash the same as illegal and consequently direct the respondents to condone the delay in filing Revision Petition Under Section 153 of Tamil Nadu Co-operative Societies Act and to dispose of the Revision Petition within a time frame fixed by this Court.

2. Heard, learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The brief facts that are necessary for the disposal of this Writ Petition are as follows:-

3.a. The petitioner has joined as a clerk in Azhagiyandipuram Primary Agricultural Co-operative Credit Society Ltd., on 15.04.1989. He was earlier promoted as Cashier on 01.04.1997, and then promoted as Assistant Secretary on 01.07.2009. After getting promotion as the Secretary to the said Society on 30.08.2011, he was working in the Society. However on 09.06.2014, the petitioner was suspended from service on the basis of few charges framed against him.

4. The petitioner challenging the order of suspension, filed a Revision Petition under Section 153 of Co-operative Societies Act on 30.06.2014. Though the revisional authority granted stay, this Court in the Writ Petition filed by Society directed the authority to dispose of the revision. Without even holding an enquiry, it is alleged by the petitioner that, he was demoted as a Clerk during the pendency of the enquiry by the Joint Director. Later, the Revision Petition filed by the petitioner was dismissed by order dated 10.03.2015. As against the order demoting the petitioner, the petitioner filed another Revision Petition. The Joint Director by order dated 22.12.2015, rejected the Petition. This order dated 22.12.2015, was stated to have been served on the petitioner only on 14.01.2016.

5. The petitioner filed a Revision Petition on 15.09.2016, along with the petition to condone the delay of 154 days in filing the Revision Petition. However, by order dated 18.01.2017, the second respondent rejected the petitioner's request on the ground that, he has no power to condone the delay beyond 90 days. Thus, the petitioner's Revision Petition was dismissed by a non-speaking order only on the ground that the Revision Petition has been filed beyond the period of limitation, namely 90 days. As against these facts and circumstances, there is no counter affidavit filed by the respondent.



6. Learned counsel for the petitioner relied upon a Judgment of this Court reported in **2012 (4) CTC 257** in the case of **N.P.Palanisamy v. The State of Tamil Nadu** where in this court has held as follows:-

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"19. Further, as per Section 153 of the Act, a Revision can be taken suo moto by the Registrar. If we look into the Proviso, the time prescribed is only for making an Application to the Registrar and it does not speak of suo moto Revision. Thus, the time prescribed in the Proviso is not with reference to a suo moto Revision to be initiated by the Registrar. When the Registrar has been empowered to initiate Revision suo moto, not circumscribed by any period of limitation, it cannot be said that the legislature would have intended to impose an impediment either on a third party or on the aggrieved the proviso. Therefore, I am of the view that the obvious intention of the legislature is to make it directory so as to encourage the parties to file Revision within 90 days. It cannot be therefore, held that the if a Revision is filed beyond 90 days, the same shall not be entertained.

20. The issue can also be looked into in a different angle. As has been pointed out by the learned Counsel for the Petitioner, in so far as an Appeal is concerned, there is a provision for condonation of delay. That means the time limit prescribed in Section 152 of the Act is mandatory. The reason for making the time limit as provided in Section 152(2) of the Act, as mandatory is understandable. Any Appeal or Revision is a creature of statute. It is too well settled that an Appeal which is a creature of a statute is the right of an aggrieved party where as, the Revision is not a right of the aggrieved party. It is because of this basic difference between the Appeal and the Revision, the legislature has though it fit to make it mandatory whereas, making the time prescribed in the Proviso is Section 153(1) of the Act pure and simple as directory"

Relying on the decision cited supra, the learned counsel for the petitioner would further submit that, in the present case, the petitioner has also given several reasons for condonation of delay.

7. Since the petitioner has given reasons explaining the delay, the statutory period of limitation prescribed for filing an appeal or revision cannot stand in the way of this Court directing the disposal of Revision Petition purely on merits, having regard



to the peculiar facts and circumstances of the case and the judgment of this Court above referred to. The learned Government Pleader has not brought to the notice of this Court, any other judgement of this Court by a Larger Bench or Supreme Court as against the view expressed by the learned Single Judge of this Court in **2012 (4) CTC 257**. Hence, this Court has no hesitation to set aside the impugned order dated 18.01.2017, passed by the second respondent. Consequently, the respondents are directed to condone the delay in filing the Revision Petition by the petitioner. The second respondent is also directed to consider and dispose of the Revision Petition filed by the petitioner within a period of three months from this day purely on merits and in accordance with law after giving opportunity to both sides.

8. With the above direction, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition No.2357 of 2017 is closed. No Costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The principal Secretary,
to Government of Tamil Nadu,
Cooperative, Food and Consumer
Protection Department,
Fort St. George,
Chennai-09.
2. The Deputy Secretary,
Cooperative, Food and Consumer
Protection Department,
Fort St. George,
Chennai-09.

+1cc to Mr.S.Karthick Subramanian, Advocate Sr.No.50028

cmr/gsp

vb/kp/20.04.2017/4p/4c

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