



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD)No.23182 of 2016

A.Manickavasagam

... Petitioner

Vs.

1. The Secretary to the Government of Tamil Nadu,
Animal Husbandary,
St. George Fort, Chennai.

2. The Commissioner for Milk Production and
Diary Development,
Revision Authority,
Chennai-51.

...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in his proceedings Rc.No.1552/2015/M1 dated 10.05.2016 and quash the same as it is illegal and injustice and consequently direct the first respondent to dispose of the appeal dated 18.10.2000 pending before it and set aside the order of dismissal from service and grant all the retirement benefits with interest at the rate of 24%.

For Petitioner : Mr.N.Sivakumar

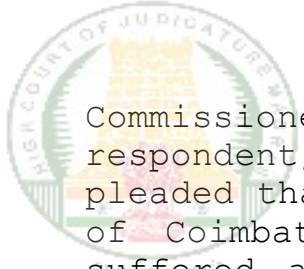
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

The present writ petition is directed against the impugned order dated 10.05.2016 passed by the Commissioner for Milk Production and Diary Development, in and by which it is stated that the revision petition filed against the order dated, 17.09.2000 had no valid reasons and failed to furnish any reason for the delay in filing the revision petition after a huge delay of 5246 days.

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

2. Assailing the impugned reasons given by the



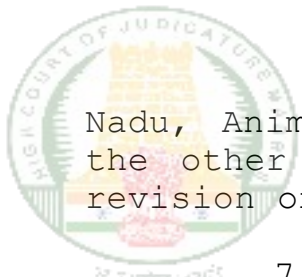
Commissioner for Milk Production and Diary Development / second respondent, the learned Counsel appearing for the petitioner has pleaded that while the petitioner was serving as Managing Director of Coimbatore District Co-Operative Milk Producers' Union, he suffered a proceedings initiated under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. On the basis of the report filed under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, he was dismissed from service by order dated 26.11.1999.

3. Aggrieved by the same, the petitioner preferred an appeal and the same was rejected on 17.09.2000. Once again, being aggrieved by the order in the appeal, the petitioner again preferred further appeal/ revision on 18.10.2000 before the Secretary to Government of Tamil Nadu, Animal Husbandary, Chennai / first respondent herein.

4. It is his further claim that during the pendency of the said appeal / revision before the Government, he was found not guilty in the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, by order dated 16.08.2013. Therefore, the case of the petitioner has been vindicated beyond all reasonable doubts and the detailed enquiry held against the petitioner under Section 87 of the Act has clearly proved that he was not found guilty of any charge or lapse. It further goes without saying that it is the decision taken in on the basis of the report filed under Section 81 of the Act is wholly fallacious. Therefore, he should not have been dismissed from service with effect from 26.11.1999. Therefore, the rejection of the appeal by order dated 17.09.2000 ought to be recalled by allowing this appeal dated 18.10.2000 filed before the first respondent / the Secretary to Government of Tamil Nadu, Animal Husbandary, Chennai.

5. In the meanwhile, without taking into account the final order passed on 16.08.2013, exonerating the petitioner from all charges levelled against him in the proceedings under Section 87 of the Act, the impugned order has been wrongly passed stating that the revision petition filed against the order dated 17.09.2000, on 28.01.2015, is occasioned by huge delay of 5246 days. When the petitioner has already filed an appeal on 18.10.2000, till date no order has been passed on the base of the order exonerating him from all the charges dated 16.08.2013. As the same has not been done, the petitioner is put to huge prejudice and humiliation, in the light of the stigmatic dismissal order passed on 26.11.1999 based on a mere report filed under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983.

6. The learned Additional Government Pleader appearing for the respondents would submit that the appeal or revision dated 18.10.2000 filed against the rejection of the appeal dated 17.09.2000 made before the Secretary to the Government of Tamil



Nadu, Animal Husbandary, Chennai, is wholly unmaintainable. On the other hand, the petitioner should have made an appropriate revision only before the second respondent.

7. This Court is unable to find any merit in his submission. The reason is when the petitioner was wrongly dismissed by order dated 26.11.1999, on the basis of the report filed under Section 81 of Tamil Nadu Co-operative Societies Act, 1983, without even getting appropriate orders from the proceedings under Section 87 of the Act, at least, when the proceedings under Section 87 of the Act has found him not guilty vide order dated 16.08.2013, the second respondent, realizing the fallacious approach adopted in passing the dismissal order against the petitioner way back on 26.11.1999, in all fairness, should have accepted his revision petition filed on 28.01.2015 condoning the delay. As he was already absolved of all the charges in the proceedings dated 16.08.2013 passed under Section 87 of the Act, the respondent cannot find fault with the petitioner that there was a delay in filing the revision petition, therefore, the present impugned order is liable to be set aside, for, no enquiry was held against the petitioner for his dismissal.

8. As mentioned above, when the proceedings under Section 87 of the Act has absolved the petitioner from all charges, it goes without saying that the order of dismissal based only on the basis of the report filed under Section 81 of the Act should have been recalled or set aside. As it has not been done, the respondents are directed to pass appropriate order entertaining the petitioner's appeal filed on 28.01.2015, without going to the technical plea of delay. The reason is, the grave error committed by the respondent in passing order of dismissal cannot stand to reason when the petitioner was not found guilty in the proceedings under Section 87 of the Act. Therefore, the impugned order is set aside and the respondents are directed to take up the revision petition and pass appropriate orders in the light of the order exonerating the petitioner dated 16.08.2013. The said exercise shall be done within a period of five weeks from the date of receipt of copy of this order.

9. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(Crl side)

/True copy/

Sub Assistant Registrar



To

1. The Secretary to the Government of Tamil Nadu,
Animal Husbandary,
St. George Fort,
Chennai.

2. The Commissioner for Milk Production and
Diary Development,
Revision Authority,
Chennai-51.

+2ccs to MR.D.Sivakumar, Advocate in SR.No.63355
+1 cc to Special Government Pleader in SR.No.63310

tsg/ssl
AE/MR KKR/SAR2/18.07.2017/4P/6C

W.P. (MD) .No.23182 of 2016
03.07.2017