

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.1647 of 2017

M.Kotti

... Appellant

-vs-

- 1.The Indian Bank Staff Co-operative
Society Ltd X-341, rep.by its Secretary
No.253, Angappa Naicken Street,
Chennai-600 001.
 - 2.The Secretary,
Indian Bank Staff Co-operative
Society Ltd X-341,
No.253, Angappa Naicken Street,
Chennai-600 001.
 - 3.The Disciplinary Committee,
The Indian Bank Staff Co-operative
Society Ltd.,
No.253, Angappa Naicken Street,
Chennai-600 001.
 - 4.The Central Registrar of Cooperative Society,
Government of India,
Ministry of Agriculture,
Department of Agriculture and Co-operation
Krishi Bhavan, New Delhi-110 001. ...
- Respondents

Appeal filed under Clause 15 of Letters Patent,
against the order passed by this Court in Rev.Appl.(Writ)
No.275/14 in W.P.No.24958 of 2011 dated 20.07.2017.

Review Application filed under order 47 rule 1 C.P.C
Seeking to Review the Order dated 22.09.2014 passed by
this Court in WP.NO.24958 OF 2011 and to quash the charge
memo dated 06.04.2009; consequently to direct the Society
for the full payment of subsistence allowance right from
the date of suspension 11.06.2008 to 30.04.2013 A.N., as
correctly held by the Honble Labour Court-I in PSA 5/2010,
dt. 27.09.2012 which was later confirmed by the Appellate

Labour Court in PS (A) 3/2013, dt. 01.08.2014, while dismissing the appeal of the 2nd Respondent / Society, favouring the Petitioner herein and confirming the earlier dated 27.09.2012 (of course, deducting 50% already paid) and this Hon'ble court may be pleased to pass such further or other orders which the Hon'ble court may think proper and fit in the circumstances of the case and render justice.

prayer in WP.NO.24958 OF 2011:

Writ of Certiorarified Mandamus to Call for the records relating to the Charge Memo, issued by the 2nd Respondent dated 06.04.2009 and to quash the same as illegal and invalid and consequently direct the 2nd Respondent to permit the Petitioner to join duty in the 1st Respondent Society with retrospective effect from 11.06.2009, with all attendance benefits.

For Appellant :: Mr.M.Baskar

For Respondents :: Mr.V.Kannan for R1 to R3
Mr.J.Madanagopal Rao for R4

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant herein was a sub-staff in the Indian Bank Staff Co-operative Society Limited, Chennai. He was placed under suspension on 11.06.2008 and paid subsistence allowance. Subsequently, charges were framed and charge memo was issued to him on 06.04.2009 for misbehaving with the staff members of the Society using vulgar words. He filed a writ petition before this Court in W.P.No.24958 of 2011 challenging the charge memo. When the said writ petition came up before the learned single Judge, it was represented by both parties that a settlement had been arrived at and that as the employees' contribution has already been paid, the remaining contribution under the heads Provident Fund Employer's Contribution with interest, gratuity and 50% of the subsistence allowance, totalling to Rs.3,68,375/- was paid to him by way of a cheque which he had agreed to receive in full quit of his claim. On acceptance of the cheque and acknowledgment given thereof and recording the statement, this Court ordered the release of the amount to the tune of Rs.87,873/- lying in the deposit before the authority concerned under the payment of Subsistence Allowance Act to the Society.

2.Thus a finality has been arrived at in the writ petition. When the matter stood thus, a review application

in Rev.Application(Writ) No.275 of 2014 has been filed and the same came to be dismissed with a cost of Rs.5,000/- by order dated 20.07.2017.

3.Challenging the order passed in the review application, the present appeal has been filed.

4.Heard the learned counsel on either side and perused the materials available on record.

5.It appears that challenging the charge memo, a writ petition was filed in W.P.No.24958 of 2011 and when the said writ petition came up before the learned single Judge, it was represented by both parties that a settlement had been arrived at and that as the employees' contribution has already been paid, the remaining contribution under the heads Provident Fund Employer's Contribution with interest, gratuity and 50% of the subsistence allowance, totalling to Rs.3,68,375/- was paid to him by way of a cheque which he had agreed to receive in full quit of his claim. Recording the same, the writ petition was disposed of ordering release of the amount to the tune of Rs.87,873/- lying in the deposit before the authority concerned under the payment of Subsistence Allowance Act to the Society. It appears that the amount that has been paid to to the appellant has been encashed by the appellant. Even though serious charges have been framed and the appellant was about to be dismissed from service, to give a quietus to the issue, the Society agreed to pay 50% of the subsistence allowance. Further, having agreed for a settlement, the appellant cannot now make an 'U' turn and say that he is entitled for 100% subsistence allowance on the ground that there was a delay on the part of the Society in proceeding with the enquiry. The learned single Judge, has rightly considered the matter and dismissed the Review Application. We do not find any error or infirmity in the impugned order passed by the learned single Judge and accordingly, the writ appeal is dismissed. No costs.

6.However, the appellant is permitted to submit a representation in this connection to the respondent Society and if such representation is submitted, it is left to the discretion of the Society to consider the same.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

KM

To

The Central Registrar of Cooperative Society,
Government of India,
Ministry of Agriculture,
Department of Agriculture and Co-operation
Krishi Bhavan, New Delhi-110 001.

+2 CC TO MR. NAMASIVAYAM Advocate SR.NO. 52263&52747

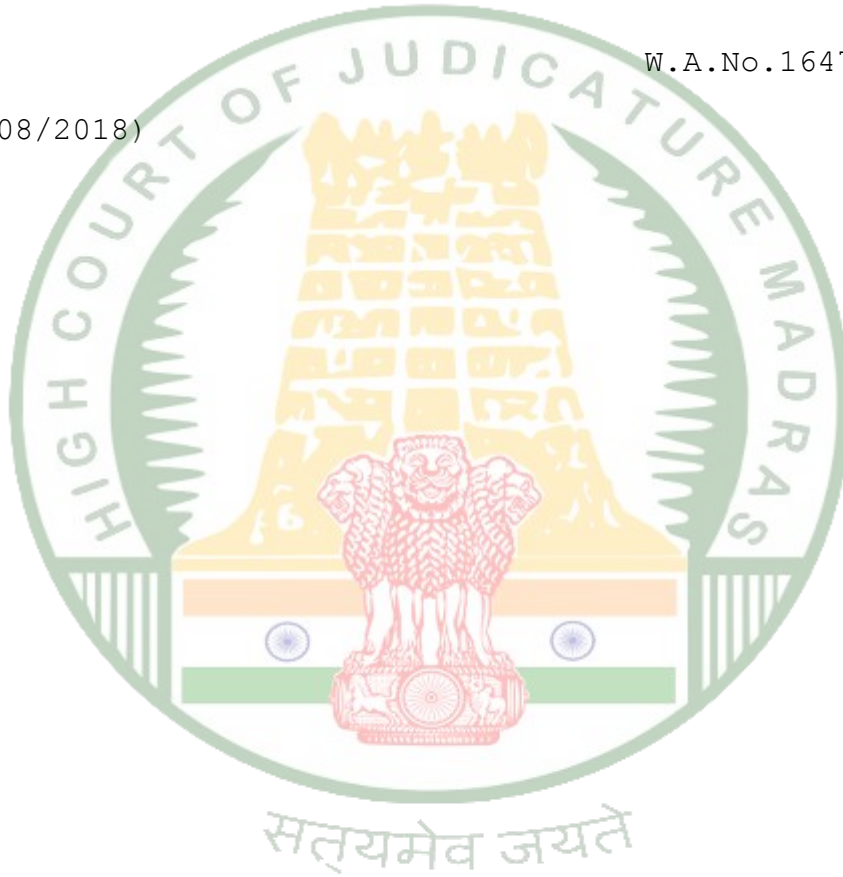
+1 MR.J.Madanagopal Rao Advocate SR.NO. 52304

+1 MR.V.KANNAN Advocate SR.NO. 52747

W.A.No.1647 of 2017

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