

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.13423 of 2008

R.Kannan

... Petitioner

Vs.

1. The Joint Registrar of Co-op. Societies,
Tiruvannamalai Region, Tiruvannamalai,
Tiruvannamalai District.
2. The Deputy Registrar of Co-op. Societies,
Tiruvannamalai Circle, Tiruvannamalai,
Tiruvannamalai District.
3. The Special Officer,
H.H.463, Aruthirappattu Primary Agricultural
Co-operative Bank,
Aruthirappattu Village & Post,
Tiruvannamalai Taluk & District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in Proceedings No.11/2007 Sa.Pa - Na.Ka.15624/2007 Sa.Pa, dated 10.03.2008 and quash the same.

For Petitioner : C.Prakasam

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader
For R1 & R2

Mr.R.Thirugnanam
For R3

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O R D E R

This Writ Petition has been filed to call for the entire records relating to the impugned order passed by the 1st respondent in Proceedings No.11/2007 Sa.Pa - Na.Ka.15624/2007 Sa.Pa, dated 10.03.2008 and to quash the same.

2. The case of the petitioner is that he was appointed as Attender in the 2nd respondent bank on 19.04.1990 and subsequently, from 04.03.1999, after 9 years of service, he was not allowed to continue the job by the 2nd respondent without any reason. The petitioner had made several representations to the respondents, but, it was not considered by them, hence, the petitioner had approached this Court by filing W.P.No.30998 of 2006 to consider his representation dated 24.06.2006 and to dispose of the same. The said Writ Petition was dismissed with liberty to the petitioner to approach appropriate forum and subsequently, the petitioner had approached this Court by filing W.P.No.21146 of 2007 to dispose of his representation dated 24.08.2006, wherein, this Court had directed the 2nd and 3rd respondents, to dispose of the representations made by the petitioner. Accordingly, the Deputy Registrar of Co-operative Societies have passed an order and rejected the petitioner's request for reinstatement.

3. Aggrieved by the said order, the petitioner had approached the 1st respondent by filing a Revision Petition under Section 153 of Tamil Nadu Co-operative Societies Act, to reinstate him, but, the 1st respondent had rejected the said Revision Petition in Proceedings No.11/2007 Sa.Pa - Na.Ka.15624/2007 Sa.Pa, dated 10.03.2008. Assaulting the correctness of the said order, the petitioner has approached this Court by filing this Writ Petition, challenging the impugned order dated 10.03.2008.

4. The petitioner would contend that the respondents have failed to consider that he was fully qualified in all aspects like education, age and cadre strength when he was appointed as Attender on 19.04.1990, hence, his termination of service is illegal, unlawful, arbitrary, without any jurisdiction and violative of mandatory provisions of law and Principles of Natural Justice.

5. The petitioner would further contend that even though the respondents were fully aware that he was appointed as Attender on 19.04.1990 and thereafter, he was continuously working as Attender as per directions of the 1st respondent, they have not allowed the petitioner to continue the job from 04.03.1999 and the representations made by him, were also not considered by the respondents.

6. It is further contended by the petitioner that even though the first respondent was aware that there was no disciplinary proceedings initiated against the petitioner and he was terminated from service only due to long period of absent, the respondents have not conducted any enquiry, which is illegal and arbitrary.

7. The third respondent had filed a counter in this regard, stating that, while the petitioner was working as a Fertilizer Salesman, he went on casual leave on 02.03.1999 and 03.03.1999, and thereafter, he stayed away from duty without any reasonable cause. Further, he has not even applied for extension of leave from 04.03.1999, therefore, the President of the 3rd respondent bank has issued two memorandums dated 17.06.1999 and 17.07.1999, directing the petitioner to report for the duty forthwith. But, the petitioner did not obey the order of the third respondent bank and had not reported to duty and the statement of the petitioner that he had made a representation before the respondents is also incorrect.

8. It has been further stated in the counter that after a prolonged period of two years, the petitioner sent a letter dated 06.02.2001 to the President, informing about reporting for duty on 12.02.2001, but, even on that day, he did not come and join the duty, but, sent a legal notice dated 02.03.2001 to the President and Secretary of the 3rd respondent bank, leveling various allegations to the effect as if he was prevented from reporting for duty on and from 12.02.2001. The petitioner's legal notice was also suitably answered denying the allegations leveled therein. Thereafter, in pursuance of the order made in W.P.No.21146 of 2007 which has been filed by the petitioner, the second respondent has considered his representation dated 24.08.2006 and the same was rejected by an order dated 27.08.2007.

9. As against the said order dated 27.08.2007, the petitioner had preferred a Revision Petition before the 1st respondent under Section 153 of Tamil Nadu Co-operative Societies Act, and the 1st respondent, after elaborate discussion, had dismissed the said Revision Petition by an order dated 10.03.2008.

10. The learned counsel for the respondents would submit that the order passed by the 1st and 2nd respondents are correct and it was passed only after a detailed discussion and in accordance with law, hence, sought for dismissal of this Writ Petition.

11. Heard the learned counsel for the petitioner and the learned counsel for the respondents, and perused the materials available on record.

12. On going through the orders passed by the 1st and 2nd respondents, it could be seen that the petitioner did not produce any evidence to show that he was prevented by the respondents from joining duty. Further, after the casual leave

which was taken on 02.03.1999 and 03.03.1999, there was no information from the petitioner and the petitioner has not even applied for extension of leave from 04.03.1999.

13. The learned counsel for the respondents have also produced the documents before this Court to show that they had issued two Memorandums dated 17.06.1999 and 17.07.1999 to the petitioner to report for the duty.

14. The petitioner's contention is that while he was in duty, there was no disciplinary or any proceedings have been initiated against him, further, even though, he was not in service from 04.03.1999, some disciplinary proceedings have been initiated against him and a criminal case was registered in Crime No.3/05, dated 24.06.2005, wherein, a suit also been filed in C.S.No.28 of 2006 regarding misappropriation of funds of Rs.7.17 lakhs and the same is pending.

15. The petitioner was absented to duty from 04.03.1999 and after a prolong period of 8 years and 6 months, he has filed the Revision Petition and hence, the same was not accepted by the respondents. Further, the respondents have not initiated any action against the petitioner and the petitioner himself had stopped coming to office after availing the casual leave. When there is no prima facie case made out by the petitioner, the Revision Petition was dismissed by the 1st respondent.

16. It could be further seen from the records that the petitioner has not produced any evidence to show that he was prevented by the respondents from joining duty, further, he has not even challenged the order passed by the second respondent dated 27.08.2007.

17. From the above records, it is evident that the petitioner has voluntarily absented himself from service and it is only an after thought he has filed the Revision Petition as if he was prevented from joining the office by the respondent. The petitioner has suppressed the material fact of pending disciplinary proceedings against him. Under these circumstances, this Court is not inclined to interfere with the impugned order passed by the 1st respondent dated 10.03.2008.

18. Accordingly, this Writ Petition is dismissed. No Costs.

raja

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Registrar of Co-op. Societies,
Tiruvannamalai Region, Tiruvannamalai,
Tiruvannamalai District.
2. The Deputy Registrar of Co-op. Societies,
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Co-operative Bank,
Aruthirappattu Village & Post,
Tiruvannamalai Taluk & District.

+lcc to M/s.R.Thirugnanam, Advocate SR.NO.36786

MP (CO)
sm:24.9.2018

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