

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.11.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 31623 OF 2018
AND
W.M.P. NO. 36857 OF 2018

V.Gururamachandran

.. Petitioner

- Vs -

1. The Joint Registrar of Co-op. Societies
Vellore Region, Vellore - 9.

2. The Deputy Registrar of
Co-operative Societies (PDS)
Vellore, Vellore Duistrict.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Rc. No.7227/2018 A1 dated 27.11.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service.

For Petitioner : Mr. C.Prakasam

For Respondents : Mr. L.P.Shanmugasundaram

ORDER

The present petition has been filed to quash the impugned order passed by the 1st respondent and to consequently direct reinstatement of the petitioner in service.

2. It is the case of the petitioner that disciplinary proceedings was initiated by the respondents against the petitioner and after due enquiry, punishment of stoppage of increment for one year without cumulative effect was ordered vide proceedings Na.Ka.32/2005/A1 dated 29.5.09.

3. In the present petition, it is claim of the petitioner that for the very same alleged irregularities, once again, the 1st respondent has passed an order of suspension, which is under challenge on the ground of illegality and arbitrariness. The

petitioner was discharging his duties as Co-operative Sub Registrar at Tiruvallur. The petitioner was deputed as Special Officer (without any salary) for the society Thiruvallur Teachers and Panchayat Union Employees Cooperative Credit Society in the year 2004. At the time, the CCIW-CID Police, Tiruvallur, registered a case against the Secretary of the said society, including the petitioner for the alleged offence of issuance of loan. Even though initially no case has been registered against the petitioner, however, he was subsequently included. Based on the above, the respondents passed the order of suspension, which was served on the petitioner on 27.11.2018. It is submitted that the petitioner due to retire on 30.11.2018. The above order of suspension has been passed after a lapse of 14 years from the date of commission of the alleged irregularities. Therefore, the present petition has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents and perused the materials available on record.

5. A perusal of the records reveal that the criminal case is pending since 2004. As speedy trial is the fundamental right of an accused person, it is not open to the department to cite the pending criminal case against the accused person to place him under suspension, that too at the fag end of his service. The above attitude of the employers placing the employees under suspension at the fag end of their service, has time and again been deprecated by the Hon'ble Supreme Court. It is to be pointed out that no person can be put on indefinite wait for the purpose of facing the criminal case.

6. Learned standing counsel for the respondents submit that if the petitioner is permitted to retire on reinstatement, the interest of the respondents should also be protected by imposing a rider that the retirement shall be subject to the outcome of the criminal case pending against the petitioner.

7. However, learned counsel appearing for the petitioner relies upon the order passed by the Government in the case of another person, viz., C.Sekar, who is also similarly placed like that of the petitioner, wherein the said person was permitted to retire from Government service on attaining the age of superannuation without prejudice to the pending criminal case.

8. Considering the entire factual matrix, this Court is of the considered opinion that an order, similar to the one passed in the case of the similarly placed person could be passed in this case as well, however, equally protecting the rights of the parties to the lis.

9. In the above circumstances, the respondents are directed to reinstate the petitioner in service and permit him to retire on attaining the age of superannuation on 30.11.2018, subject to the outcome of the pending criminal proceedings. On such retirement, the respondents are directed to pay all the dues like provident fund, earned leave salary and unearned leave salary to which the petitioner is entitled. All other payments, which are due to the petitioner shall be subject to the outcome of the criminal proceedings.

10. This writ petition is disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

GLN

To

1. The Joint Registrar of Co-op. Societies
Vellore Region, Vellore - 9.
2. The Deputy Registrar of
Co-operative Societies (PDS)
Vellore, Vellore District.

+2cc to Mr.C.Prakasam, Advocate, SR.No.81884,81969

W.P. NO.31623 OF 2018

GMV (30/11/2018)

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