



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.02.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) Nos.23101 and 11002 of 2015

and

W.P(MD)Nos.18826 and 22320 of 2016

and

M.P(MD)Nos.1 and 2 of 2015 and W.M.P(MD)No.11449 of 2016

and

M.P(MD)Nos.1 and 2 of 2015 and W.M.P(MD)No.15994 of 2016

and

W.M.P(MD)No.13609 of 2016

W.P.(MD) Nos.23101 and 11002 of 2015

T.Vijaya,
D/o.A.Thankaraj,
Wife of Murugan,
Assistant Secretary(Under Suspension),
Kunnathoor Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai- 629 171,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.

... Petitioner in W.P.(MD) Nos.23101
and 11002 of 2015

-vs-

1.The Joint Registrar of Cooperative Societies,
Nagercoil,
Kanyakumari District.

2.The Kunnathoor Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.

represented by its President.

...Respondents
in W.P.(MD) Nos.23101 and
11002 of 2015

W.P(MD)No.18826 of 2016

T.Vijaya,
D/o.A.Thankaraj,
Wife of Murugan,
Assistant Secretary(Under Suspension),
Kunnathoor Primary Agricultural Co-operative



Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai- 629 171,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.

(Residing at Charalatharai,
Chalachakaonam,
Kappucaud Post,
Kanyakumari District.)

....Petitioner.

.vs.

1.The Joint Registrar of Cooperative Societies,
Nagercoil,
Kanyakumari District.

2.The Deputy Registrar of Cooperative Societies,
Thuckalay, Kanyakumari District,
Pin-629 175.

3.The Kunnathoor Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.

represented by its President.

....Respondents

W.P(MD)No.22320 of 2016

T.Vijaya,
D/o.A.Thankaraj,
Wife of Murugan,
Assistant Secretary(Under Suspension),
Kunnathoor Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai- 629 171,
Pudukkadai Post,
Kanyakumari District,
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Kanyakumari District.

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Pin-629 175.

3.The Kunnathoor Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.
represented by its President.

4.The Executive Committee of the Kunnathoor
Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.
represented by its President.

5.Mr.C.Mohandhas
President, The Kunnathoor Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Co-operative Bank Road,
Puthukkadai,
Pudukkadai Post,
Kanyakumari District,
Pin-629 171.

6.Mr.M.Gopalakrishnan,
Advocate/Domestic Enquiry Officer of Kunnathoor
Primary Agricultural Co-operative
Credit Society Limited, Y-55,
Opposite to Court,
Kuzhithurai,
Kanyakumari District.

....Respondents

Prayer in W.P(MD)No.23101 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to its order in No.Nil, bearing date as 17.10.2015 at its top and as 15.10.2015 at its bottom, on its file and to quash the same and to direct the second respondent to pay to the Petitioner the subsistence allowance and wages in full as



provided in Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 including its first and second provisos, but excluding its last proviso for her service in the second respondent-Society

Prayer in W.P(MD)No.11002 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to consider and dispose of the Petitioner's petition dated 15.6.2015 for interim stay of suspension from service in the second respondent/society by proceeding order of the second respondent in No.Nil, dated 13.4.2015 on its file, filed in her revision petition, dated 17.4.2015 before the first respondent against the said order of the second respondent, within the time to be fixed by this Court.

Prayer in W.P(MD)No.18826 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the fourth respondent pertaining to its resolution No.1, dated 19.9.2016 on its file, passed in its meeting held on 16/9/2016, but signed on 19.9.2016, and the consequential order No.Nil, dated 14.9.2016 of the third respondent on its file and to quash the said resolution insofar as the same is against the Petitioner and the said consequential order.

Prayer in W.P(MD)No.22320 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the third respondent pertaining to its order in communication No.Nil, dated 24.10.2016 on its file addressed to the Petitioner and the consequential order of the sixth respondent in proceeding No.Nil, dated 15.11.2016, on his file and to quash the same.

W.P. (MD) Nos.23101 and 11002 of 2015

For Petitioner	: M/s.K.N.Thampi
For Respondent-1	: Mr.R.Sethuraman Special Government Pleader
For Respondent-2	:M/s.M.E.Elango

W.P (MD) No.18826 of 2016:

For Petitioner	: M/s.K.N.Thampi
For Respondent-1&2	: Mr.R.Sethuraman Special Government Pleader for R-1&R-2
For Respondent-3	:M/s.M.E.Elango

W.P (MD) No.22320 of 2016:

For Petitioner	: M/s.K.N.Thampi
For Respondents 1 to 3	: Mr.R.Sethuraman Special Government Pleader
For Respondents 4 and 5	:M/s.M.E.Elango

**COMMON ORDER**

The learned counsel appearing on behalf of the respondents/Management filed a memo today on 23.02.208. The management agreed to appoint a new Enquiry Officer for the purpose of conducting a fresh enquiry and accordingly, conclude the departmental disciplinary proceedings. The contents of the memo are extracted hereunder:

MEMO FILED ON BEHALF OF THE MANAGEMENT

It is respectfully submitted that all the above Writ Petitions have been filed questioning the disciplinary proceedings (mainly appointment of enquiry officer) initiated against the petitioner by the management. As far as W.P(MD)No.6631 of 2015 is concerned, already department enquiry is over and the Enquiry Officer had also submitted his report and findings to the Management. In the other cases, the departmental proceedings is under say. In this back drop, the management agrees as under:

I)The Management will be appointing Mr.Madhavan Nair(573/1994), Advocate, Opposite to Padmanabhapuram Court, Thuckalay Post, Kanyakumari-629175 as the new enquiry Officer and fresh enquiry will be conducted against the Petitioner, except the one covered in W.P(MD) No.6631 of 2015.

ii)The Management agrees to conclude the disciplinary proceedings within a period of three months from the date of receipt of copy of the order passed by this Honourable Court, subject to the cooperation of the Petitioner.

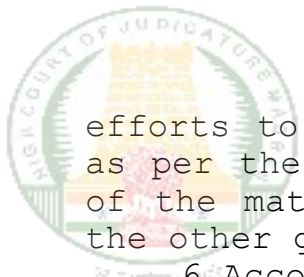
iii)The Management agrees to pay subsistence allowances at the rate of 50% of the last drawn wages for this period of three months.''

2.As far as W.P(MD)No.6631 of 2015 is concerned, the said Writ Petition is de-linked from other Writ Petitions.

3.In respect of appointment of a new Enquiry Officer, this Court would expect that a new Enquiry Officer will conduct the enquiry in a fair manner by providing reasonable opportunity to all the parties to the enquiry and conclude the same and submit a report, as per the time frame as agreed by the Management.

4.The Writ Petitioner is directed to co-operate with the Enquiry Officer in the enquiry proceedings in all respects and if any non-cooperation is found by the Enquiry Officer, then the same may be recorded by him in the enquiry proceedings itself.

5.In respect of payment of Subsistence Allowance, it is made clear that the monthly subsistence allowance should be disbursed to the Petitioner on or before 5th of every English Calendar month and the subsistence allowance should be paid till the completion of the departmental disciplinary proceedings. Thus, this Court is of an opinion that the parties to the lis will co-operate and take all



efforts to conclude the disciplinary proceedings in all respects, as per the time agreed upon in Memo, dated 23.2.2018. In this view of the matter, no further consideration is required in respect of the other grounds raised in these Writ Petitions.

6. Accordingly, all these Writ Petitions stand closed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

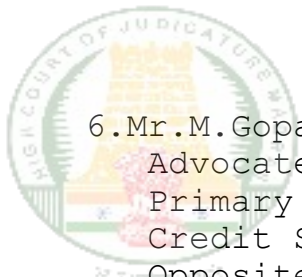
Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

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Kanyakumari District.
2. The Deputy Registrar of Cooperative Societies,
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Advocate/Domestic Enquiry Officer of Kunnathoor
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+1cc to M/S.K.N.THAMPI, Advocate, SR.No. 51024

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23.02.2018

VSN
KK/JC/14.03.2018/SAR-2/7P-8C