

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5660 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus, directing the respondents to pay subsistence allowance and arrears of salary during the period of removal of petitioner from service i.e. from 01.11.1988 to 09.01.1997 as the petitioner was acquitted in C.C.No.28 of 1995 on the file of Additional Munsif Magistrate Court, Chodavaram and also direct the respondents to consider the representations submitted by the petitioner besides declaring the same as arbitrary and illegal and violative of procedure contemplated under the provisions of A.P.Co-operative Societies Act and Rules made thereunder.

Heard Sri B.Ravi Chandra, learned counsel for petitioner and the learned Government Pleader for Co-operation.

It has been contended by the learned counsel for petitioner that he was initially appointed as a Clerk in the year 1983 and while he was discharging his duties, respondents have alleged that the petitioner had indulged in certain irregularities and a criminal case was also filed against the petitioner. The petitioner further submits that the respondents, vide proceedings dated 01.11.1988, have removed the petitioner from service on the ground that the petitioner had indulged in a criminal case. The petitioner further submits that he was tried by the Additional Munsif Magistrate, Chodavaram in C.C.No.28 of 1995 and he was acquitted of the said criminal charge, vide orders dated 09.01.1997. The petitioner further submits that consequent upon his acquittal in criminal case, the petitioner was reinstated into service by the Divisional Co-operative Officer, vide proceedings dated 30.12.1996 and the petitioner had joined as a Clerk on 10.01.1997. However, in the said order dated 30.12.1996, it was held that

the petitioner was not entitled to arrears of salary from 01.11.1988 to 09.01.1997. Hence, the present writ petition is filed.

Learned counsel for petitioner submits that the petitioner had submitted a series of representations to the respondents for payment of salary for the period from 01.11.1988 to 09.01.1997, but the respondents have not passed any orders on such representations.

This Court, having considered the rival submissions of the parties, is of the considered view that until and unless the petitioner challenges the orders of Divisional Co-operative Officer dated 30.12.1996, the petitioner could not be entitled for arrears of salary from 01.11.1988 to 09.01.1997. However, this Court is of the considered view that the ends of justice would be met if the respondents are directed to consider the representation submitted by the petitioner on 15.10.1997, and the petitioner is also given liberty to submit a fresh representation to the respondents within two weeks from the date of receipt of a copy of this order, and upon such representation being received from the petitioner, the respondents shall consider the same along with the earlier representation dated 15.10.1997 and pass appropriate orders in another four weeks thereafter.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

13th December 2018

ajr