

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.5569 of 2011

K.Mani

... Petitioner

Vs

- 1.The Joint Registrar of Coop. Societies
Dharmapuri Region, Dharmapuri
- 2.The Special Officer, S3577, Thirumalvadi Primary
Agricultural Cooperative Credit Society Limited
Pelamaranahalli Village, Thirumalvaidd Post
Palacode Taluk, Dharmapuri. ... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 1st Respondent in Na.Ka.No.6963/2010 Sa.Pa, dated 29.11.2010, confirming the order of dismissal, passed by the 2nd Respondent, dated 17.05.2010 and to quash the same and to direct the Respondents to reinstate the Petitioner into service with back wages and all other consequential attendant benefits.

For Petitioner : Mr.M.A.P.Thangavel

For Respondents : Mr.L.P.Shanmugasundaram, SGP

ORDER

The prayer in this Writ Petition is to quash the order of the 1st Respondent, dated 29.11.2010, confirming the order of dismissal, passed by the 2nd Respondent, dated 17.05.2010 and to direct the Respondents to reinstate the Petitioner into service with back wages and all other consequential attendant benefits.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the Petitioner was appointed as a Salesman in the PDS (Ration) Shop, run by the 2nd Respondent Society on

5.8.1989, on a consolidated pay. On the allegations that during a sudden inspection on 7.10.2009, the Petitioner did not open the shop at that time and there was a bogus sale, the Petitioner was suspended. The Petitioner had not received any communication from the enquiry officer for appearing in the enquiry. Only on oral instructions by the Enquiry Officer, the Petitioner appeared for the enquiry on 17.4.2010, on which date, no documents had been furnished to the Petitioner. Without providing opportunity to the Petitioner, an enquiry report was filed on 25.4.2010, without conducting the enquiry in accordance with law. The Petitioner was asked to pay a penalty of Rs.72,890.10/- for the alleged bogus sale and the said amount was also recovered by the Respondent Society. In addition to the said penalty, the Petitioner was dismissed from service. Hence, contending that there was no proper enquiry conducted before passing the dismissal order, which is in violation of principles of natural justice, this Writ Petition has been filed, seeking the relief as stated above.

4. The learned counsel for the Petitioner has submitted that the penalty amount had already been recovered from the Petitioner and that if the Petitioner is reinstated in service by the Respondent Society, the Petitioner will not insist upon any back wages and other consequential benefits.

5. The learned Special Government Pleader for the Respondents would submit that the Respondent Society will consider and accept the proposal of the Petitioner to reinstate him in service on condition that the Petitioners shall not seek any refund of the amount paid by the Petitioner and shall not also seek back wages and other consequential benefits and also shall file an affidavit of undertaking to that effect.

6. The learned counsel for the Petitioner has submitted that the Petitioner is willing to relinquish his promotion and other benefits as of now and also filed an additional affidavit of undertaking, dated 11.01.2019, signed by both the Petitioner and the learned counsel for the Petitioner, wherein, the Petitioner has undertaken as under:-

- a) I will not claim any back wages till the reinstatement of service.
- b) I will not claim any continuity of service including promotion as on today.
- c) I will not indulge any illegality in future and I obey orders of the superior.

7. In the light of the said additional affidavit of undertaking given by the Petitioner and by consent of the learned counsel on either side, this Writ Petition is disposed of, with the following directions:-

i.The impugned orders of the 1st Respondent, dated 29.11.2010 and dated, 17.05.2010 are quashed.

ii.The Respondents are directed to reinstate the Petitioner in service, on the basis of the additional affidavit of undertaking, dated 11.01.2019, filed by the Petitioner before this Court.

iii. The said affidavit of undertaking, dated 11.01.2019, filed by the Petitioner shall form part of this order.

iv.It is also made clear that except the relief of reinstatement in service, the Petitioner is not entitled to any other consequential benefits, whatsoever, as per the said additional affidavit of undertaking filed by him before this Court.

v.There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Srcm
To

1.The Joint Registrar of Coop. Societies
Dharmapuri Region, Dharmapuri

2.The Special Officer, S3577, Thirumalvadi Primary
Agricultural Cooperative Credit Society Limited
Pelamaranahalli Village, Thirumalvaid Post
Palacode Taluk, Dharmapuri.

+1cc to Ma.P.Thangavel, Advocate sr.3354
+1cc to M/S.L.P.Shanmugasundaram, Advocate sr.3648
+1cc to the Government Pleader sr.3990

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srg 27/02/2019