

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26220 of 2013

V.Shanmughasundaram

...Petitioner

Vs.

1.Government of Tamilnadu represented by
its Secretary, Cooperation, Food and
Consumer Protection Department
Fort St. George, Chennai 600 009

2.Registrar of Cooperative Societies
N.V.N.Maligai
170, E.V.R.Periyar Road
Chennai 600 010

3.Joint Registrar of Cooperative Societies
Coimbatore Region
Coimbatore

4.Deputy Registrar of Cooperative Societies
Coimbatore Circle
Coimbatore

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent in Rc.144786/08 DA3 dated 12.02.2009 as confirmed by the impugned order of the first respondent in Letter No.22652/CL2/2012-5 dated 29.01.2013, quash the said orders as illegal arbitrary, unjust and unsustainable in law consequently directing the respondents 2 to 4 herein to implement the order of the first respondent in letter No.6572/C.L.2/09-8 dated 19.02.2010 by reinstating the petitioner in service with all the monetary and service benefits including increments and promotions to which petitioner is entitled to in law.

For Petitioner : Mr.A.S.Vijaya Ragavan

For Respondents : Ms.T.Girija, G.A.

O R D E R

This petition has been filed by the petitioner to call for the records relating to the impugned order of the 2nd respondent in Rc.144786/08 DA3 dated 12.02.2009 as confirmed by the impugned order of the first respondent in Letter No.22652/CL2/2012-5 dated 29.01.2013, quash the said orders as illegal arbitrary, unjust and unsustainable in law consequently directing the respondents 2 to 4 herein to implement the order of the first respondent in letter No.6572/C.L.2/09-8 dated 19.02.2010 by reinstating the petitioner in service with all the monetary and service benefits including increments and promotions to which petitioner is entitled to in law.

2.The writ petitioner was appointed as Junior Inspector of Cooperative Societies under Rule 10(a)(1) of the General Rules of the Tamilnadu State and Subordinate Service and subsequently the writ petitioner was deputed as Special Officer in the Kurumba Palayam Primary Agricultural Cooperative Bank and two other Primary Agricultural Cooperative Banks. Thereafter, the petitioner was terminated from the service by the Deputy Registrar, Coimbatore with effect from 11.08.1987 for certain serious irregularities and malpractices committed by him. Thereafter, the petitioner filed O.A.No.2565/1996 before the Tamil Nadu Administrative Tribunal to direct the 1st respondent to dispose the appeal preferred by the petitioner and an order was passed on 14.05.1996 in O.A.No.2565/1996 to dispose of his appeal dated 23.02.1990 within a period of six weeks.

3.Thereafter, on 11.07.1996, the Registrar, Cooperative Societies sent a letter to the petitioner, informing him that according to Rule 10(a)(1) of the General rule for Tamil Nadu State and Subordinate service Rules, the service of a person appointed temporarily can be terminated at any time without any notice and without any reason from the service and hence the petitioner's temporary service was terminated with effect from 11.08.1987. In view of the above provisions and as per instruction of the Government issued in G.O.Ms.No.901, Personnel and Administrative Reforms Department dated 01.09.1994, the disciplinary action initiated against the petitioner under Tamil Nadu Civil Services (Discipline and Appeal) Rules in memo Rc.No.73/1987 dated 18.06.1987 of the Deputy Registrar, Coimbatore has been deferred. In as much as the charges have not been disposed of. Moreover, no appeal petition dated 23.02.1990 referred to in the judgment dated 14.05.1996 of the Tamil Nadu Administrative Tribunal are pending with Registrar. This fact also informed to the Additional Standing counsel, Tamil Nadu Administrative Tribunal in Registrar letter dated 11.07.1996.

4. In the light of the above, the petitioner filed O.A.No.777 of 1990, challenging the order of the 4th respondent in Na.Ka.No.8633/1987 dated 11.08.1987 as confirmed by the 2nd respondent vide proceedings No.1635/1989 dated 30.01.1989 and quash the order of termination of the petitioner and direct the respondent to reinstate him in service. The Tamil Nadu Administrative Tribunal in its order dated 09.07.2001 dismissed the O.A.No.777 of 1990 as devoid of merits.

5. Thereafter, the petitioner once again filed O.A.No.5597 of 1996, challenging Rc.No.92296/96 DA3 dated 11.07.1996, pending on the file of the 1st respondent and consequently to extend all the benefits both service and monetary by reinstating the petitioner as Junior Inspector and other consequential benefits arising thereto. The aforesaid O.A.No.5597 of 1996 was transferred and renumbered as W.P.No.28137 of 2006 before this Court. This court by its order dated 05.08.2008 in W.P.No.28137 of 2006 passed the following order:

'In view of the above, the impugned order dated 11.07.1996 is set aside and the matter is remitted back to the Registrar first respondent, who shall pass appropriate orders, in accordance with law, within a period of four months from the date of receipt of a copy of this order. Since the order of termination was passed in the year 1987 and having regard to the pendency of this litigation for more than ten years, the appellate authority is directed to consider the case of the petitioner, with reference to the charge and pass orders.'

6. Thereafter, the Regional Joint Registrar, Coimbatore in his letter dated 05.01.2009, reported that the charges have been framed against the petitioner is not traceable in view of efflux of time i.e. more than 20 years. On 12.02.2009, the petitioner received a letter from the respondents that there is no need of reconsideration of the termination proceedings, as the termination already issued is incorrect prospective both under rule and law. Therefore, the petitioner preferred an appeal on 13.03.2009 to set aside the termination order and request for posting and financial benefits. Thereafter, on 28.10.2009, as requested by Government in letter dated 18.08.2009, the Deputy Registrar, Coimbatore in file No.8633/1987 sent a copy of the order of this Court in W.P.No.28137 of 2006 to the Government. On 19.02.2010, the Government passed an order in letter No.6572/CL.2/2009-8, setting aside the termination order of the Deputy Registrar, Coimbatore in Rc.No.8633/1987 dated 11.08.1987 and instructed to initiate 17(b) charges against the petitioner.

7.While that being so, the petitioner filed W.P.No.24361 of 2012 before this Court to dispose of his appeal dated 11.03.2009, which was received by the 1st respondent on 13.03.2009. This Court by its order dated 07.09.2012, allowed the said petition, directing the 1st respondent to dispose of the appeal within a period of three months. Pursuant to the said order of this Court, the 1st respondent passed an order, dismissing the appeal preferred by the petitioner. Challenging the same, the instant petition is filed before this Court.

8.The learned counsel for the petitioner stated that subsequently the writ petitioner came to know about the termination order dated 11.08.1987 passed by the 4th respondent / Deputy Registrar, Coimbatore was set aside by the Government and the matter was remitted back to the respondents and the proceedings were initiated under 17(b) charges against the petitioner. The petitioner was not aware of the proceedings passed by the Government. Accordingly, prays for appropriate orders.

9.The learned Government Advocate, appearing for the respondents produced the records and submitted that the above said fact has not been disputed. It is admitted by the respondents that the Government on 19.02.2010 has set aside the order of the Deputy Registrar, Coimbatore dated 11.08.1987. The petitioner was not aware of the aforesaid proceedings dated 19.02.2010.

10.It is also seen from the records and also on further verification of the records, there is intra department communication between the Deputy Registrar and the Government for clarification. Till the filing of the writ petition, the said fact of disposal of the appeal was not brought to the notice of the petitioner. Therefore, the petitioner was not aware of the proceedings dated 19.02.2010 passed by the Deputy Secretary to the Government. The 1st respondent also appeared before this court and verified the records and he admitted that the Government on 19.02.2010 passed an order of setting aside the termination order.

11.In view of the aforesaid admitted fact by the respondents as well as the admitted fact that the impugned orders passed by the respondents are liable to be quashed by confirming the order dated 19.02.2010 passed by the Government. It is open to the respondents to proceed in the light of the order passed on 19.02.2010 and if it is permissible in law.

12.In the result, the impugned order is quashed and this writ petition is allowed. If any enquiry is conducted by the respondents, the petitioner shall cooperate with the enquiry.

No costs. Consequently, connected miscellaneous petition if any is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

kas

To.

1. Government of Tamilnadu represented by
its Secretary, Cooperation, Food and
Consumer Protection Department
Fort St. George, Chennai 600 009

2. Registrar of Cooperative Societies
N.V.N.Maligai
170, E.V.R.Periyar Road
Chennai 600 010

3. Joint Registrar of Cooperative Societies
Coimbatore Region
Coimbatore

4. Deputy Registrar of Cooperative Societies
Coimbatore Circle
Coimbatore

+1cc to Mr.A.S.Vijaya Ragavan, Advocate SR.No.94280

+1cc to Government Pleader SR.No.95085

W.P.No.26220 of 2013

GMV (19/12/2019)

WEB COPY