

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2019

CORAM

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

W.P.No.1147 of 2018
and
W.M.P.Nos.1425 & 1426 of 2018

Kathiravan

... Petitioner

--vs--

1.The Joint Registrar,
Nagappatinam Region Co-Operative Societies,
Nagapattinam.

2.The Deputy Registrar,
Mayiladuthurai Region,
Nagapattinam.

3.The Special Officer,
Muthalaimedu Primary Agriculture
Co-Operative Loan Society Ltd.,
Muthalaimedu,
Nagapattinam District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.602/2011/Pvithi(4) Dt:01.11.2017 and quash the same as illegal, arbitrary and non est in law and also direct the first respondent to re-instate the petitioner to service in third respondent's society with all backwages.

For Petitioner :Mr.G.Mohammed Aseef

For Respondents:Mr.L.P.Shanmugha Sundaram
Special Government Pleader.

O R D E R

The order of termination dated 01.11.2017, is directly hit by the principles of natural justice.

2.The learned Special Government Pleader appearing on behalf of the respondents is unable to establish the fact that an opportunity as demanded had been provided to the writ petitioner atleast to put forth his case before the competent authority, who issued the impugned order of termination.

3. This Court is of an undoubted opinion, that any order terminating the service rights of an employee, is to be passed, only after providing an opportunity and by receiving explanations/objections from such an employee and by following the procedures contemplated under the Statutes and Rules. This being the legal principles to be followed, the present case deserves no consideration. In view of the fact that the respondents are unable to establish that an opportunity to provide explanation was given to the writ petitioner and the unilateral decision was taken and therefore, the order passed deserves to be scraped. Accordingly, the impugned order passed by the first respondent in proceedings Na.Ka.602/2011/Pvithi(4) dated 01.11.2017 is quashed and the competent authority is directed to issue show cause notice and after providing an opportunity as contemplated under the Rules or by-laws take a decision and pass orders on merits and in accordance with law.

4.Accordingly, the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Pns

To

1.The Joint Registrar,
Nagappatinam Region Co-Operative Societies,
Nagapattinam.

2.The Deputy Registrar,
Mayiladuthurai Region,
Nagapattinam.

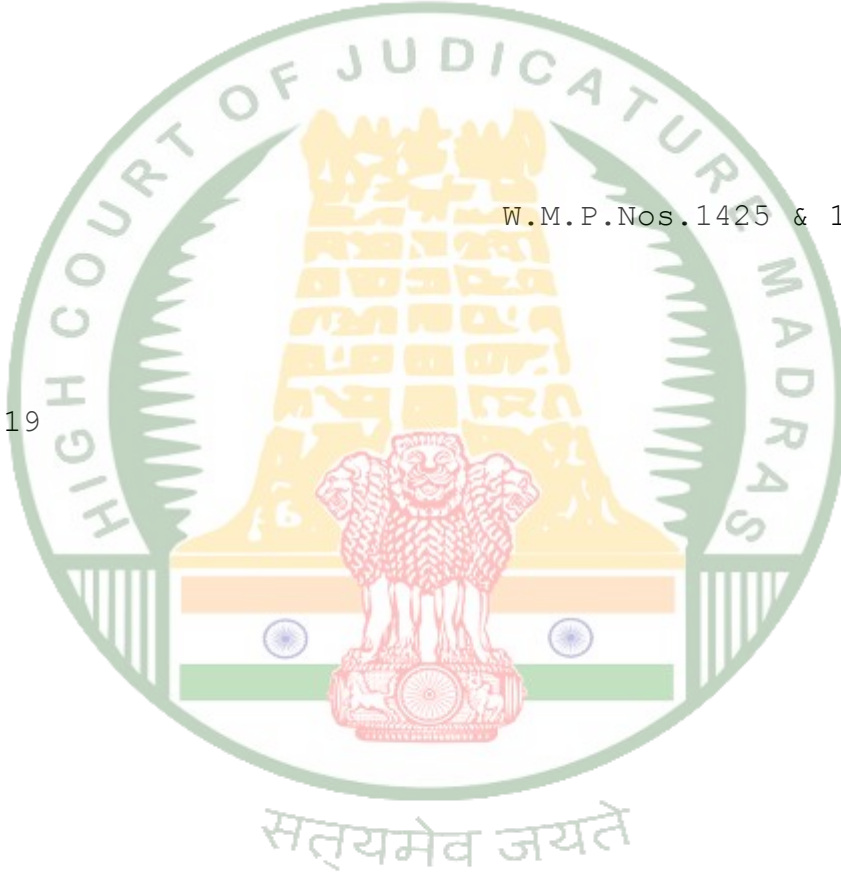
3.The Special Officer,
Muthalaimeedu Primary Agriculture
Co-Operative Loan Society Ltd.,
Muthalaimeedu, Nagapattinam District.

+lcc to Mr.G.Mohammed Aseef, Advocate Sr.10419
+lcc to the Government Pleader Sr.10740
+lcc to Mr.L.P.Shamugasundaram, Advocate Sr.10121

W.P.No.1147
of 2018
and

W.M.P.Nos.1425 & 1426 of 2018

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srg 7/3/2019



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