

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.22632 of 2018

V.Gnanamoorthy

.. Petitioner

versus

1. The Joint Registrar of Coop.Societies,
Villupuram Region, Villupuram,
Villupuram District.

2. The Deputy Registrar of Coop.Societies,
Villupuram Circle, Villupuram,
Villupuram District.

3. The President,
Cl.SPL.119, Thiruchitraambalam Primary Agricultural
Co-op Credit Society,
Thiruchitrabalam, Vanur Taluk,
Villupuram District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.8232/2009/Sa.Pa, dated 25.01.2012, quash the same and consequently direct the respondents to disburse 34 months salary to the petitioner for the period from 11.02.2009 to 25.01.2012.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram, Spl.GP

ORDER

The petitioner has come forward with the present Writ Petition, seeking to challenge the order dated 25.01.2012 passed in Revision under Section 153 of Tamil Nadu Co-operative Societies Act, moderating the punishment of termination into one of stoppage of increment for a period of three years with cumulative effect. The petitioner also sought for consequential direction to the respondents to disburse 34 months salary payable to him for the period from 11.02.2009 to 25.01.2012.

2. When the matter is taken up for hearing, it is found that the petitioner has approached this Court earlier for the same relief in W.P.No.23942 of 2018, wherein, this Court vide order dated 12.02.2018, dismissed the same on the ground of lapse of time. Against the dismissal order, a Writ Appeal has also been filed in W.A.No.581 of 2018, wherein, a Division Bench of this Court, vide its order, dated 17.04.2018, allowed the appellant to withdraw the appeal on the basis of the request made by the appellant therein.

3. From the above, it is clear that the petitioner has failed to obtain any relief in earlier round of litigation from the learned single Judge and

though the writ appeal was filed, later for whatever best reasons known to the petitioner, he requested the Court's permission to withdraw his appeal and the same was entertained and consequently, the appeal preferred against the order passed by the learned single Judge came to be withdrawn at the instance of the petitioner and there ends the matter and no further litigation can be entertained for the same cause of action.

4. At this, Mr.C.Prakasam, learned counsel appearing for the petitioner would submit that in a criminal case against the petitioner, an order was passed on 18.04.2017, wherein, certain observations were made by the Criminal Court and such observations were in favour of the petitioner and therefore, the present round of litigation has been necessitated. This Court is unable to accept such submission made on behalf of the petitioner. Any observation even assuming that the same is in favor of the petitioner, the same cannot be accepted by this Court unless the original punishment imposed by the revisional authority is properly recalled or set aside. In any event, this Writ petition is hit by the principle of *res judicata* and also amounts to gross abuse of process of Court. Although the proper course for this Court is to impose costs on the petitioner for approaching this Court for the same relief, which, in earlier round of litigation, the petitioner failed to get the same. However, considering the age of the petitioner who retired from service, this Court refrains from imposing any costs.

V.PARTHIBAN, J.

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5. For the above said reasons, the Writ Petition is dismissed both on grounds of maintainability as well as on merits. No costs.

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25.06.2019

To

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