

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.17192 of 2019

and

WMP No.16740 of 2019

V.P.Palanisamy

..Petitioner

vs

1.The Registrar of Co-operative Societies,
N.V.Natarajan Maaligai,
E.V.R.Periyar Road, Kilpauk,
Chennai - 600 010.

2.The Joint Registrar of Co-operative Societies,
Namakkal Region,
Namakkal.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, praying to call for the records in pursuant to the impugned show cause notice issue by the 2nd respondent in proceedings Rc.No.583/2016/EM dated 28.05.2019 and quash the same and consequently direct the respondents to permit the petitioner to retire from service with effect from his date of superannuation on 30.06.2005 will all consequential service and monetary benefits.

For Petitioner : Mr.R.Prem Narayan

For Respondents: Mr.D.Venkatachalam
Special Government Pleader

O R D E R

Writ Petition is filed for issuance of Writ of Certiorarified Mandamus, praying to call for the records in pursuant to the impugned show cause notice issue by the 2nd respondent in proceedings Rc.No.583/2016/EM dated 28.05.2019 and quash the same and consequently direct the respondents to permit the petitioner to retire from service with effect from his date of superannuation on 30.06.2005 will all consequential service and monetary benefits.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents. By consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that while the petitioner was working as Co-operative Sub-Registrar (Inspection-2) in the office of the Deputy Registrar of Co-operative Societies, Tiruchengode, he was placed under suspension on the date of superannuation vide orders of the Joint Registrar of Co-operative Society Namakkal issued in proceedings dated 30.06.2006 and further, he was placed under suspension and not allowed to retire from service due to pendency of a criminal case in C.C No.188 of 1997 on the file of the Judicial Magistrate Court, Omalur, Salem. Further, the case of the petitioner is that he was initially appointed as Senior Inspector of Co-operative Societies on 10.06.1970 and posted in the District Co-operative Audit Office, Coimbatore and subsequently he was promoted as Co-operative Sub-Registrar during September 1986. While he was working as Co-operative Sub-Registrar/Extension Officer (Co-operative) Kadayamapatti Panchayat Union, Salem during the year 1989-1990 was given additional charge of the post of Special Officer of three co-operative societies including that of Marakottai Primary Agricultural Co-operative Society. When he was holding the post of Special officer (Additional Charge) of the Marakottai Primary Agricultural Co-operative Society, the Secretary of the said society misappropriated the funds of the society and a criminal case was registered. Though the petitioner's name was not included as an accused in the FIR, unfortunately, while filing the charge sheet, he was arrayed as accused No.2. Subsequently, a charge memo was also framed against the petitioner and for the said charges, he was imposed punishment of severe warning as per the orders of the Deputy Registrar of Co-operative Societies, Omalur dated 31.12.1993. Thereafter, a criminal case was filed in C.C No.188 of 1997 before the District Munsif cum Judicial Magistrate Court and after the conclusion of trial, all the accused including the petitioner filed a mercy petition pleading guilty to the criminal charges and pleaded to be released under Probation of Offenders Act 1958 and accordingly, the petitioner was released by the District Munsif cum Judicial magistrate by a judgment dated 23.12.2014, placing him on probation for a period of 1 year under Section 4(3) of Probation Offenders Act and on execution of a bond for a sum of Rs.10,000/- under Section 4(1) of the Probation of Offenders Act 1958. Immediately after the criminal court proceedings, the respondent issued a show cause notice to participate in the enquiry. Challenging the said show cause notice, the present writ petition is filed.

4. Ms.Swathi, the learned counsel for the petitioner would submit that under the Probation Offenders Act, the petitioner was not convicted and he was acquitted in the criminal case and hence, there is no legal impediment to conclude the suspension order or retention order and to pay the benefit. However, the 2nd respondent issued a show cause notice and challenging the same, the present writ petition is filed. She would further submit that without going into the merits of the case, it would suffice to issue a direction to the respondents to conclude departmental enquiry within a reasonable time fixed by this Court.

5. The learned counsel for the respondents would submit that this Court need not interfere with the show cause notice and permit the petitioner to submit his explanation and after reply, the proceedings will be completed within a reasonable time.

6. Considering the facts and circumstance of the case and the limited request made by the petitioner, this Court is not inclined to interfere with the show cause notice issued by the 2nd respondent. However, this Court is inclined to permit the petitioner to file his explanation within a period of two weeks from the date of receipt of a copy of this order. Thereafter, 2nd the respondent has to conclude the enquiry within a period of eight weeks from the date of receipt of explanation from the petitioner.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

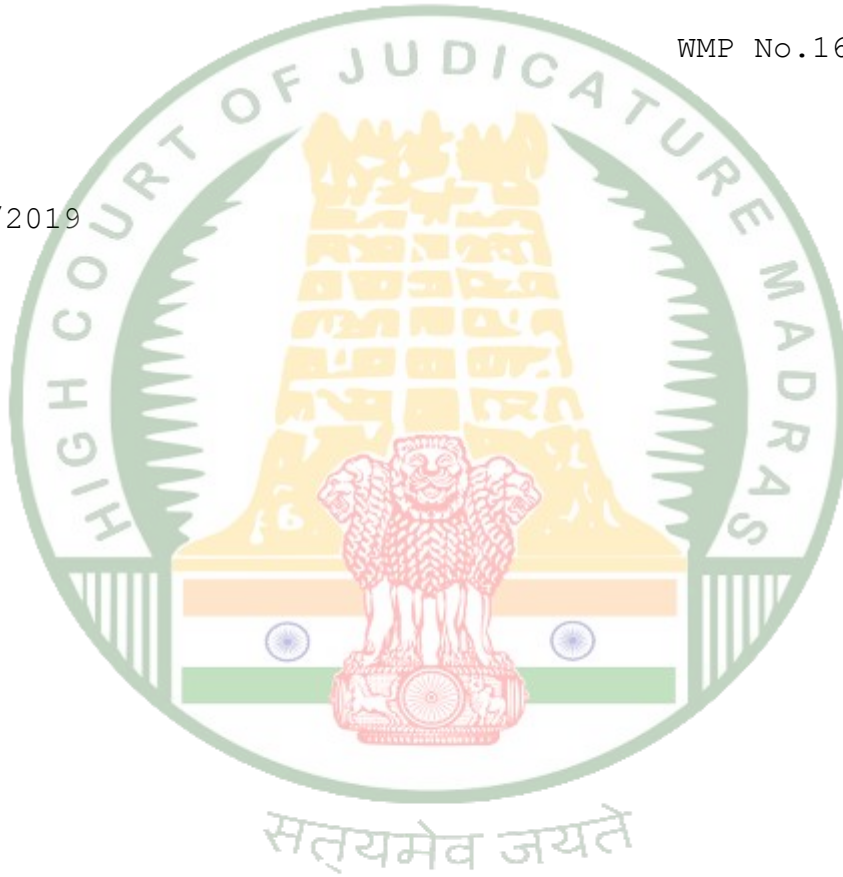
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2.The Joint Registrar of Co-operative Societies,
Namakkal Region,
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+1cc to Mr.R.Prem Narayan, Advocate Sr.83897
+1cc to the Government Pleader Sr.84534

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srg 18/11/2019



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