

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2019

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.19546 of 2019

M.Anbalagan

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
(Revisional Authority U/s.153 of Tamil Nadu
Co-operative Societies Act, 1983)
Namakkal Region, Namakkal District.

2.The President,
No.1571, Kondichettypatty Primary
Agricultural Co-operative Credit Society,
Namakkal District - 637 002.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Revision Petition No.1654/2019/sa.pa, dated 08.04.2019 and quash the same and consequently direct the 1st Respondent to entertain the Revision Petition dated 27.03.2019 preferred by the petitioner and pass orders in the Revision Petition on merits.

For Petitioner : Mr.K.Raja
For M/s.N.Kolandaivelu

For 1st Respondent : Mr.D.Venkatachalam
Additional Government Pleader

For 2nd Respondent : Mr.Bala Ramesh
Special Government Pleader

ORDER

The petitioner was working as Salesman and was dismissed from service on 25.07.2011. According to the respondents, the petitioner refused to receive the dismissal order and therefore, the same was published in the newspaper as on 05.08.2011 and even thereafter, there was no response from the petitioner and the dismissal order has become final. A criminal case was

registered in which the petitioner was implicated as C.C.No.110/2012, which came to be dismissed on 13.10.2017 by the Criminal Court acquitting the petitioner. Thereafter, the petitioner appears to have submitted a revision petition on 27.03.2019 purported to have been filed under Section 153 of the Tamil Nadu Co-operative Societies Act. In response to the revision petition filed by the petitioner, the impugned order was passed on 08.04.2019 rejecting the same stating that the petitioner ought to have submitted a revision petition within 90 days from the date of dismissal order. Against the said order, the present writ petition has been filed.

2.Mr.K.Raja, learned counsel for the petitioner would submit that this Court has taken a view, which is reported in 2012 (4) CTC 257 [N.P.Palanisamy V. State of Tamil Nadu, rep. By Secretary to Government, Food & Co-operation Department, Fort St. George, Chennai and others], that the limitation of 90 days for filing a revision petition was not mandatory, but only a directory and the authority is empowered to condone the delay in case of proper explanation from the employee concerned. In fact, the learned counsel would also draw the attention of this Court an order passed by a learned single Judge of this Court in W.P.No.4641 of 2018 dated 01.03.2018 in which the learned Judge has directed the authority to consider the revision petition filed by the petitioner therein on merits and pass orders in accordance with law within a period of eight weeks, by considering the delay in filing the revision petition, since the authority has the power to condone the delay in case of proper explanation offered by the employee concerned.

3.Therefore, the learned counsel would submit that in the year 2017, the petitioner came to be acquitted from the criminal charge vide judgment of the Criminal Court dated 13.10.2017 and therefore, the petitioner has presently a cause of action and has got valid explanation for approaching the revisional authority belatedly.

4.At this, the learned Special Government Pleader appearing for the 2nd respondent would submit that though attempts were made to serve the copy of the dismissal order of the year 2011, the same was not accepted by the petitioner. But thereafter, the respondents were constrained to cause paper publication announcing the dismissal of the petitioner. The petitioner, having slept over his right to seek proper redressal by way of filing a revision petition, has approached the authority only 2019 without offering any explanation except stating that he was acquitted by the Criminal Court on 13.10.2017. Therefore, he would submit that the petitioner need not be shown any indulgence by this Court.

5.Considering the submissions made on behalf of the petitioner as well as the learned Special Government Pleader for the 2nd respondent, no doubt, the arguments advanced on behalf of the respondents has some force that the petitioner has been quite casual about not agitating the issue against the dismissal order all these years and has slept over his right from 2011 till 2019. Yet, in view of the subsequent development namely, that in the criminal case, the petitioner is acquitted of the charges by the judgment of the Criminal Court dated 13.10.2017, the petitioner has some explanation for approaching the authority in 2019. No doubt, even from the date of acquittal by the Criminal Court and till the date of his representation on 07.09.2018, some time has elapsed yet, by way of giving opportunity to the petitioner to air his grievances and consideration of the same on merits by the revisional authority, this Court remits the matter back to the authority to consider the revision petition as well as the condone delay application to be filed by the petitioner explaining the delay.

6.In view of the same, the order passed by the revisional authority in Revision Petition No.1654/2019/SAPA dated 08.04.2019 is hereby set aside and the matter is remitted back to the authority for consideration of the revision petition on merits and in accordance with law and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. While considering the revision petition, the petitioner is directed to submit an application for condonation of delay explaining the delay, which prevented him from filing the revision within time and such application being filed, the same may be considered sympathetically by the authorities concerned. Necessary orders may be passed both on the condone delay application as well as on the revision petition as deemed fit by the authority concerned.

7.The Writ Petition is disposed of, with the above directions. No Costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

Sgl

To

1.The Joint Registrar of Co-operative Societies,
(Revisional Authority U/s.153 of Tamil Nadu
Co-operative Societies Act, 1983)
Namakkal Region, Namakkal District.

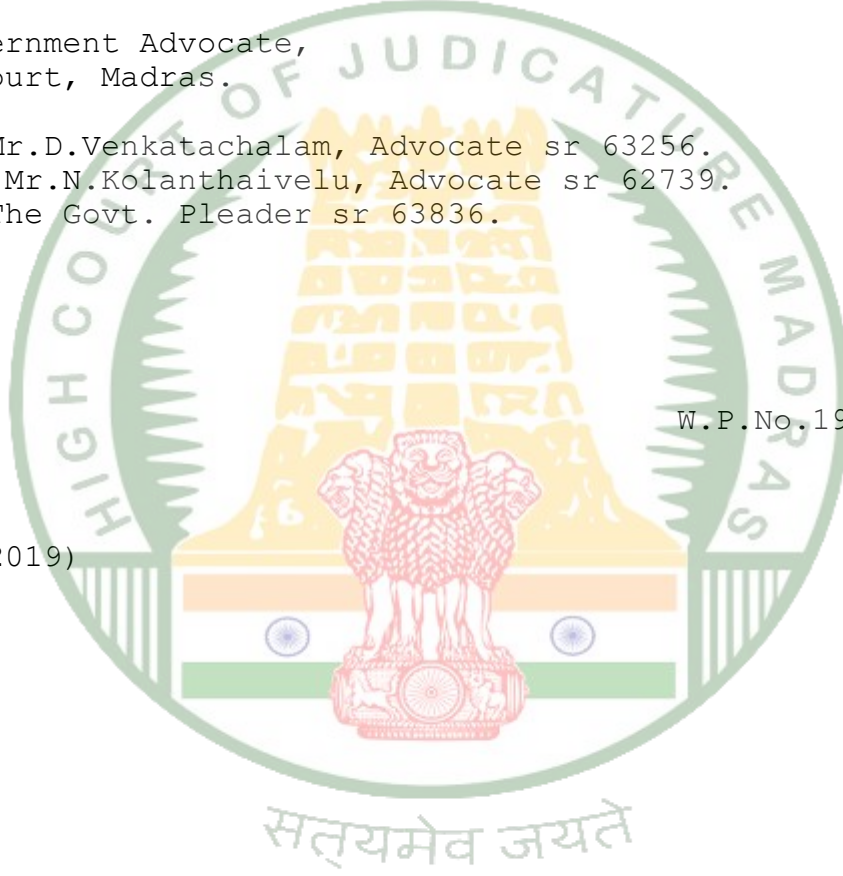
2.The President,
No.1571, Kondichettypatty Primary
Agricultural Co-operative Credit Society,
Namakkal District - 637 002.

3.The Government Advocate,
High Court, Madras.

+1 CC to Mr.D.Venkatachalam, Advocate sr 63256.
+2 CCS to Mr.N.Kolanthaivelu, Advocate sr 62739.
+1 CC to The Govt. Pleader sr 63836.

W.P.No.19546 of 2019

GP(CO)
SP(22/08/2019)



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