

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-04-2019

CORAM

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

W.P.No.33190 of 2018

V.T.Rajasundaram

... Petitioner

vs

1.The Managing Director,
T.U.C.S. Ltd.,
No.156, Big Street,
Triplicane - 600 005.

2.The Assistant Registrar,
T.U.C.S. Ltd.,
No.156, Big Street,
Triplicane - 600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first and second respondents to pay the petitioner's subsistence dues between 1.5.2012 to 31.8.2014 for 16 months and to direct them to revoke the suspension order by TUCS on 31.5.2018 to retire peacefully and to claim the retirement benefits, pending disposal of the writ petition.

For Petitioner : Mr.R.Mohandoss for
M/s.Swaminathan Law Associates.

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to pay the writ petitioner subsistence dues of the year 2012 to 2014 and direct the respondents to revoke the order of suspension dated 31.5.2018.

2. The prayer sought for in the present writ petition is absolutely misconceived.

3. Firstly, the writ petitioner claims the subsistence allowance for a period from 1.5.2012 to 31.8.2014, now after the lapse of about 4 years from the date of suspension.

4. Secondly, the writ petitioner seeks direction to revoke the order of suspension dated 31.5.2018. The order dated 31.5.2018, which is enclosed in page No.68 of the typed set of papers filed along with the present writ petition, shows that the writ petitioner was terminated from service. Thus, the question of revocation of suspension does not arise at all.

5. Once an employee was placed under suspension and after concluding the departmental disciplinary proceedings imposed with the punishment of termination, then the question of challenging the order of suspension does not arise at all and such a prayer is absolutely innocuous.

6. The order of termination dated 31.5.2018 was issued by the Managing Director of Triplicane Urban Cooperative Society, which is registered under the provisions of the Tamil Nadu Cooperative Societies Act, 1983.

7. The respondent-Cooperative Society is not funded by the Government nor an instrumentality of a State. It is a Cooperative Society funded by its own members and the Board of Management is administering the affairs of the Society. The Government official now in the rank of Joint Registrar is appointed as the Managing Director to supervise the affairs of the respondent-Society. In the absence of any funding by the Government, the Cooperative Society cannot be construed as a State within the meaning of Article 12 of the Constitution of India.

8. This apart, the provisions of the Tamil Nadu Cooperative Societies Act, 1983 provides a revision against the orders passed by the management of Cooperative Societies. The statutory revision is contemplated under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. Thus, the writ petitioner is bound to exhaust the remedy available under the Statute and no writ petition can be entertained in a routine manner by dispensing with the appellate remedy contemplated under the Statute.

9. No writ petition can be entertained in a routine manner without exhausting the statutory remedies. The Rule is to exhaust the remedy available under the Statute in entertaining the writ petition by dispensing with the statutory provisions is only an exception. Thus, the judicial review against the order

passed by the management of a Cooperative Society cannot be exercised without exhausting the statutory remedy provided under the Tamil Nadu Cooperative Societies Act, 1983 itself.

10. This being the legal principles to be followed, the writ petitioner is bound to approach the competent authority under the provisions of the Tamil Nadu Cooperative Societies Act, 1983 by filing the writ petition in a prescribed format and by paying the required fees. Thus, the writ petitioner is at liberty to approach the competent authority for the redressal of his grievances in the manner known to law.

11. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Managing Director,
T.U.C.S. Ltd.,
No.156, Big Street,
Triplicane - 600 005.

2.The Assistant Registrar,
T.U.C.S. Ltd.,
No.156, Big Street,
Triplicane - 600 005.

+1cc to M/S.Swaminathan Law Associates Sr.32190
+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.31807
+1cc to the Special Government Pleader Sr.31975

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