



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.MD).No.6152 of 2011

and

M.P.(MD)No.1 of 2011

Narayanamoorthy

... Petitioner

Vs.

1.The Special Officer

O-1084, Akl Co-Operative Stores,
Arumuganeri - 628 202,
Thoothukudi District.

2.The Deputy Registrar Of Co-Op. Stores

Thiruchendur,
Thoothukudi District.

3.The Joint Registrar Of Co-Operative Societies,

Thoothukudi District,
Thoothukudi.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned order issued by the first respondent in his proceedings dated 26.11.2008 and the third respondent's proceedings Na.Ka.17346/08 ஈஹ, dated 10.06.2009 and third respondent's proceedings No.Na.Ka.10680/2009 ஈஹ, dated 18.06.2010 and quash the same as illegal and consequently direct the first respondent to re-instate the Petitioner in service with all pecuniary and service benefits in retrospectively.

For Petitioner : Mr.S.Muthalraj

For Respondents : Mr.D.Muruganandam
Additional Government Pleader

ORDER

This writ petition is filed for issuing a Writ of Certiorarified Mandamus, to quash the proceedings of the first respondent, dated 26.11.2008, in confirming the order of respondents 1 and 3, in dismissing the petitioner from service and



to direct the first respondent to re-instate the petitioner in service.

2. The petitioner was employed as a Salesman in the first respondent Co-operative Stores. Since a criminal complaint was registered against the petitioner and others for the offences under Essential Commodities and Control Orders, the petitioner was issued with a charge memo. Since the petitioner was originally convicted, pending criminal investigation, it is stated that the petitioner was dismissed from service merely because criminal complaint is registered against the petitioner.

3. The criminal case was registered by Inspector of Police, CSCID, Tirunelveli in Crime No.354 of 2007 for the offence under Sections 6(3), 6(4) of TNSC (RDCS) Order 1982 r/w 7(1)(a)(ii) of EC Act, 1955 and the case was taken on file in C.C.No.204 of 2009 on the file of the learned Judicial Magistrate No.I, Thoothukudi. Since the petitioner's dismissal was on the basis of the registration of F.I.R and pendency of criminal case, the petitioner challenged the order of termination on various grounds.

4. It is admitted that the criminal case in C.C.No.204 of 2009, which was originally taken on file by the learned Judicial Magistrate No.I, Thoothukudi, was subsequently transferred to the file of the learned Judicial Magistrate No.II, Thoothukudi and taken on file in C.C.No.918 of 2017. After trial, the petitioner was acquitted from the criminal charges, by judgment, dated 07.12.2019. Since the petitioner was acquitted from the criminal charges, the reason for dismissing the petitioner from service falls to the ground.

5. As a result, the petitioner is entitled to succeed. Hence, this Writ Petition is allowed and the orders impugned are set aside. Since the termination of service is purely on the ground that a criminal case has been registered against the petitioner, the order of dismissal cannot be sustained. The first respondent is directed to reinstate the petitioner. However, liberty is given to the respondents to initiate fresh proceedings. It is seen that the first charge is related to the ground that as against the petitioner, the criminal complaint is registered, Further, charge Nos. 2 and 3 are also the outcome of registration of criminal case, for which the charges in the charge memo have been issued. Since the charges have to be dealt with independently, the matter is remitted to the disciplinary authority for fresh consideration. The first respondent shall revive the proceedings from the stage of enquiry. In case, the delinquencies reported in the charge memo, are proved in the domestic enquiry, the first respondent is permitted to pass fresh order against the petitioner in accordance with law. Such enquiry should be completed within a period of six months from the date of



receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

WEB COPY

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

- 1.The Special Officer
O-1084, Akl Co-Operative Stores,
Arumuganeri - 628 202,
Thoothukudi District.
- 2.The Deputy Registrar Of Co-Op. Stores
Thiruchendur,
Thoothukudi District.
- 3.The Joint Registrar Of Co-Operative Societies,
Thoothukudi District,
Thoothukudi.

+1 CC to Spl.GP (SR-98848[F] dated 15/11/2019)

W.P.MD).No.6152 of 2011
14.11.2019

MK (17.12.2019) 3P 5C