



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.9259 of 2015

and

M.P(MD)No.1 of 2015

and

W.M.P(MD)Nos.16419 of 2016 & 18629 of 2017

A.Thavamani Raj

... Petitioner

Vs

The Joint Registrar of Co-operative Societies,
O/o.The Joint Registrar of Co-operative Societies,
Theni Region,
Theni.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Suspension order in Rc.No.733/2015, Esst (1) dated 28.04.2015 on the file of the Respondent and the consequential order in Rc.No.733/2015 Em(2) dated 30.04.2015 on the file of the Respondent and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.K.Mu.Muthu,
Additional Government Pleader

ORDER

The order of suspension as well as the order passed under the fundamental rules retaining the services of the writ petitioner beyond the period of his date of superannuation are under challenge in the present writ petition.

2.The writ petitioner was working as Co-operative Sub-Registrar and on account of the criminal case registered against him, the writ petitioner was placed under suspension. Consequently, the writ petitioner was not allowed to retire from service and his services are retained under Rule 56(1)(c) of the Fundamental Rules in proceeding dated 30.04.2015.



3.The learned counsel appearing on behalf of the writ petitioner states that the criminal case is also pending for long years and therefore, the impugned orders are liable to be scraped. It is further contended that the departmental disciplinary proceedings are disposed of and therefore, the writ petitioner is entitled for pensionary benefits.

4.The learned Additional Government Pleader appearing on behalf of the respondent opposed the contentions by stating that the criminal case is pending against the writ petitioner and further the writ petitioner has involved in various other litigations. Lot of proceedings are pending against the writ petitioner and therefore, only after the disposal of all those departmental disciplinary proceedings as well as the criminal case, the respondents would be in a position to consider the case of the writ petitioner for allowing him to retire from service and to settle the terminal benefits.

5.It is useful to refer the details of the case now pending against the writ petitioner, which is stated in para 11 of the counter affidavit filed by the respondents.

"11.For easy reference of this Hon'ble Court, I have set out the details of the proceeding in nutshell. The following proceedings are pending against the petitioner till this date.

(i)Charge Memorandum vide Na.Ka.991/2006 Nu.Ku.1 dated 01.12.2014 issued under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules by the Deputy Registrar of Co-operative Societies, Chennai.

(ii)Charge Memorandum vide Na.Ka.Pa.O.Na.1/2/50688/2007 dated 07.10.2014 issued under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules by the Managing Director of Agro Engineering Service, Chennai.

(iii) Criminal prosecution initiated against the petitioner by the Inspector of Police, Commercial Crime Investigation Wing in C.C.No.24/2011 to 27/2011 pending on the file of the Learned Judicial Magistrate No.III, Madurai.

(iv)Disciplinary proceedings initiated against the petitioner in pursuance of charge memorandum vide Na.Ka.8697/2005 Tho.Va.1 dated 07.06.2006 under Rule 17 (b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, issued by the Deputy Registrar of Co-operative Societies, Madurai Circle (as it was remanded to the disciplinary authority by the appellate authority).



(v)Disciplinary proceedings initiated against the petitioner in pursuance of charge memorandum vide Na.Ka.2561/2008 Tho.Va dated 31.12.2008 under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, issued by the Deputy Registrar, Madurai Circle (as it was remanded back to the disciplinary authority by the appellate authority).

(vi)Execution Proceedings vide No.139/2009-2010 and 196/2010-2011 in pursuance of the surcharge decree.

(vii)Execution proceedings vide No.268/2010-2011 dated 16.03.2011 initiated in pursuance of the surcharge decree.

(viii)Execution Proceedings No.519/2007-2008 initiated under Rule 122 of the Tamil Nadu Co-operative Societies Rules in pursuance of the order of attachment of salary dated 13.07.2009.

ix)In addition to the above pending disciplinary proceedings, surcharge proceedings and Criminal proceedings, the petitioner was imposed various punishments in pursuance of the disciplinary proceeding initiated on five different charge memorandum. Those punishments imposed against the petitioner are yet to be implemented. (The details of the punishment and the charge memorandum are set out in the annexure)."

6. In view of the fact that many cases are pending against the writ petitioner, the order of suspension as well as the consequential order of retaining the services of the writ petitioner cannot be interfered with. Only after the disposal of the criminal case and all other proceedings now pending against the writ petitioner, the case of the writ petitioner is to be considered for passing further orders by the Department with reference to the rules in force.

7.With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)



To

The Joint Registrar of Co-operative Societies,
Theni Region,
Theni.

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+1 CC to Special Government Pleader (SR-75524[F] dated 16/07/2019)

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-75632[F] dated 17/07/2019)

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15.07.2019

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