



WEB COPY

W.P.(MD) No.20922 of 2018 and

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.20922 of 2018

and

WMP No.18770 of 2019

Jeyachitra

Petitioner

Vs

1. The Joint Registrar of Co-operative Societies
Thiruchirappalli Division
Thiruchirappalli
2. The Deputy Registrar of Co-operative Societies
Lalgudi Region
Lalgudi
Thiruchirappalli District
3. The President
TY.SPL92, Pullampadi Primary Agricultural
Co-operative Credit Society Ltd
Pullambadi Post
Lalgudi Taluk
Thiruchirappalli District
4. The Special Officer
TY.SPL92, Pullampadi Primary Agricultural
Co-operative Credit Society Ltd
Pullambadi Post
Lalgudi Taluk
Thiruchirappalli District

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the dismissal order dated 16.06.2017 passed by the third respondent against the petitioner and quash the same as illegal and consequently direct the respondents to reinstate the petitioner into service with all service and monetary benefits within a period stipulated by this Court.

(Prayer amended vide order dt 25/10/2019 made in WMP(MD)No.18770/19 in WP (MD)No.20922/18 by VMVJ)

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioner : Mr.R.Mohanasundaram
For Respondents : For R1 & R2-Mr.M.Jeyakumar
Additional Government Pleader
For R3 & R4 - Mr.R. Murugan

WEB COPY

O R D E R

This Writ petition has been filed to call for the records relating to the dismissal order dated 16.06.2017 passed by the third respondent against the petitioner and quash the same as illegal and consequently direct the respondents to reinstate the petitioner into service with all service and monetary benefits within a period stipulated by this Court.

2. The petitioner along with one Sheela devi, who were working as Sales Women in the Pullampadi Primary Agricultural Co-operative Credit Society Ltd, Tiruchirappalli were involved in charges of misappropriation, owing to which, the petitioner was kept under suspension. Simultaneously, a criminal case in Crime No.25 of 2016 came to be registered, which culminated into a charge sheet and taken on file in CC No.82 of 2016 by the Judicial Magistrate Court No.VI, Trichy. The third respondent had imposed a punishment of stoppage of increment for one year. The alleged amount of misappropriation was also remitted back by the petitioner. However, since the petitioner was not reinstated to the service, she had made some representations and pursuant to the same, the second respondent had passed a dismissal order on 16.06.2017. The order of dismissal is under challenge in the present Writ petition.

3. In the meantime, the criminal case proceedings against the petitioner in CC No.82 of 2016 came to be concluded by a judgment dated 19.06.2017, whereby the petitioner was acquitted, along with the co-delinquent namely Sheela devi.

4. The learned counsel for the petitioner submitted that when the co-delinquent was also levelled against the same charges and she had admitted of the charges, this Court had passed orders setting aside the order of dismissal against her by placing reliance under Section 77(4) of Co-operative Societies Act 1983.

5. The learned Standing counsel for the respondents 3 & 4 reiterated the averments made in the counter affidavit and submitted that the disciplinary proceedings as well as the criminal case are separate in nature and therefore there is no infirmity in the order of dismissal passed by the second respondent. The learned Special Government Pleader also placed his arguments in similar lines.

6. Heard both sides and perused the documents.



7. It is not in dispute that the co-delinquent Sheela devi had filed a Writ petition before this Court challenging the order of dismissal and the same came to be allowed on 14.02.2018 in the following manner.

5. The learned Senior counsel appearing for the petitioner raised two grounds. He drew the attention of this Court to section 77 (4) of Tamil Nadu Co-operative Societies Act 1983. The said provision reads as under:-

"(4) Where a paid officer or servant of a registered society removed from service under Sub-section (2) or sub-section (3) is acquitted by the competent Court, or when the conviction of such officer or servant is set aside on appeal or revision by the appellate court, such officer or servant shall be reinstated to the same post held by him prior to such removal"

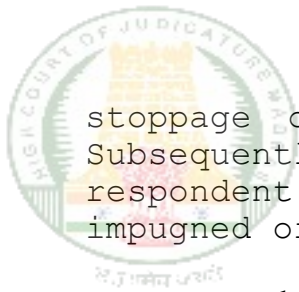
6. He also pointed out that the impugned order will have to be set aside, since the first respondent did not take into account the judgment of acquittal passed in favour of the petitioner herein.

7. The facts are not in dispute. The petitioner was acquitted by the competent criminal Court. Such a judgment of acquittal is certainly a relevant material to be taken note of. In the present case, the first respondent without taking into account the said judgment of acquittal has passed the impugned order of removal from service. It is a settled principle of law that any administrative authority must take into account all relevant circumstances while deciding a matter.

8. In this case, since a relevant material has not been taken into account, this Court has to necessarily conclude that the impugned order is vitiated on that account. In this view of the matter, this Court quashes the order impugned in this Writ Petition. The matter is remitted to the file of the first respondent to pass orders afresh in accordance with law. It is needless to mention that all the contentions available to the writ petitioner are left open. Since the order of removal has been set aside the petitioner shall be reinstated in service forthwith.

8. The said order is said to have become final. The petitioner in the present Writ Petition as well as the co-delinquent namely Sheela Devi, who was the petitioner in WP No.1190 of 2018 are placed with similar delinquencies and as such the decision rendered in the case of sheela devi would squarely apply to the case of the present Writ petitioner also and accordingly the impugned order of dismissal passed by the second respondent would be liable to be set aside.

9. There is yet another aspect to the present case in hand. Services imposed on the petitioner was imposed with the punishment of



stoppage of increment for a period of one year on 22.08.2016. Subsequently, the second respondent herein directed the third respondent to remove the petitioner from service. Accordingly, the impugned order of dismissal dated 16.06.2017 came to be passed.

10. A perusal of the impugned order does not reveal the fact that the earlier punishment of stoppage of increment for a period of one year was recalled or set aside. Without doing so, the petitioner cannot be subjected to two punishments and as such the second punishment of dismissal from service imposed by the third respondent herein, without recall of the earlier punishment, itself is illegal.

11. For all the aforesaid reasons, the impugned order dated 16.06.2017 by the third respondent is hereby set aside. Consequently, there shall be a direction to the third respondent to reinstate the petitioner to service with all consequential service and monetary benefits.

12. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Joint Registrar of Co-operative Societies,
Thiruchirappalli Division,
Thiruchirappalli.

2. The Deputy Registrar of Co-operative Societies,
Lalgudi Region, Lalgudi
Thiruchirappalli District.

+1 CC to M/s.Special Government Pleader (SR-105548[F] 18/12/2019)

+1 CC to M/s.R.MURUGAN, Advocate (SR-105711[F] dated 18/12/2019)

W.P. (MD) No.20922 of 2018 and
WMP No.18770 of 2019
17.12.2019

vrn

SDS/02.01.2020/4P-5C

<https://hcservices.ecourts.gov.in/hcservices/>