

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4/3/2020

C O R A M

THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.2779 of 2020

A. Vasantha ... Petitioner

Vs

1. The Joint Registrar of Co-operative Societies
Salem Region
Salem.
2. Salem District Consumer Co-operative
Wholesale Stores Ltd
rep. By its Joint Registrar/
Managing Director
Sitaraman Road
Salem 9. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the order of suspension passed by the second respondent in Na.Ka.No.901/2017A/1 dated 18/11/2017, quash the same and direct the respondents to reinstate the petitioner as Sales woman in the second respondent wholesale stores with all monetary benefits.

For petitioner ... Mr.M.S.Palaniswamy

For respondents ... Mr.L.P.Shanmuga Sundaram
Special Government Pleader
for R.1.

Mr.M.R.Raghavan
for R.2.
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O R D E R

The writ petition has been filed by the petitioner, praying for the issuance of a writ of certiorarified mandamus to call for the records of the order of suspension passed by the second respondent in Na.Ka.No.901/2017A/1 dated 18/11/2017, quash the same and direct the respondents to reinstate the petitioner as Saleswoman in the second respondent wholesale stores with all monetary benefits.

2. The petitioner was appointed as Assistant Sales woman on 22/10/1985. Thereafter, she was promoted as Sales woman on 12/5/2017. While she was working in Ponni Co-operative Supermarket, in Maligai Section, between 12/5/2017 and 18/11/2017, she was served with a suspension order, dated 18/11/2017, by the second respondent. The suspension order was issued, on the basis of action initiated by Vigilance and Anti Corruption Department. Officers from Vigilance and Anti Corruption Department seized unaccounted cash from grocery section on 16/11/2017. Along with the petitioner, Manager of the supermarket was also suspended. Thereafter, First Information Report was lodged by the Deputy Superintendent of Police, Vigilance and Anti Corruption and no further progress has been made.

3. In the above said circumstances, the petitioner approached this Court in W.P.No.25829 of 2018, assailing the order of suspension, dated 18/11/2017. This Court, vide, order, dated 21/3/2019, dismissed the writ petition with liberty to approach the competent authority, under the provisions of Tamil Nadu Co-operative Societies Act, for redressal. However, the petitioner appears to have approached the first respondent, but the representation was not considered and therefore, the present writ petition has been filed by the petitioner, challenging the suspension order, dated 18/11/2017.

4. The principal ground on which the challenge is made in the writ petition is the decision of the Hon'ble Supreme Court of India in AJAYKUMAR CHOUDRY Vs. UNION OF INDIA {(2015) 7 SCC - 291}, wherein it has held that prolonged suspension is impermissible beyond a particular limit.

5. Learned counsel appearing for the petitioner herein submitted that on the basis of the above judgment of the Hon'ble Supreme Court, number of decisions have been rendered by this Court and prolonged suspension orders were repeatedly interfered with.

6. Learned counsel would further submit that as regards the Manager, who was also suspended along with the petitioner, he has filed a writ petition in W.P.No.34542 of 2019 and recently, a learned Judge of this Court, vide order, dated 20/12/2019, having relied on the judgment of the Hon'ble Supreme Court reported in AJAYKUMAR CHOUDRY Vs. UNION OF INDIA {(2015) 7 SCC - 291}, and also decisions of this Court, passed a detailed order, allowing the writ petition. Since the co-employee who was also suspended for the same allegation has been granted the relief, as a natural corollary, the petitioner is also entitled to the relief as granted by this Court.

7. On this Mr.M.R.Raghavan, appearing for the respondent would stoutly oppose for the grant of any relief, since serious allegations were levelled against the petitioner. He has attempted to draw this Court's attention to First Information Report, lodged against the petitioner, in order to support the plea that allegation against the petitioner is too serious in nature and hence, no relief could be granted to her.

8. However, this Court is not inclined to go into the contents of the First Information Report for the simple reason that as far as this writ petition is concerned, the scope of the litigation is only whether the prolonged suspension is permissible, in view of the legal principles enunciated by the Hon'ble Supreme Court as well as this Court. Indisputably, the law in regard to the prolonged suspension is well settled over a period of time from the date when the decision in AJAYKUMAR CHOUDRY's case, came to be rendered by the Hon'ble Supreme Court.

9. As rightly contended by the learned counsel for the petitioner that number of decisions have been rendered by this Court wherein, prolonged suspension orders were repeatedly interfered with.

10. In such a view of the matter, this Court does not think that it can be persuaded to take a different view. In the said circumstances, this Court has no hesitation in allowing the writ petition.

11. In the result, instant writ petition is allowed. Order of suspension dated 18/11/2017 is hereby set aside. The second respondent is directed to reinstate the petitioner with all attendant benefits and he shall ensure that the petitioner is posted in a non-sensitive post. This order shall be complied with within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Joint Registrar of Co-operative Societies
Salem Region
Salem.
2. The Joint Registrar/Managing Director
Salem District Consumer Co-operative
Wholesale Stores Ltd
Sitaraman Road
Salem 9.

+1cc to Mr.M.S.Palaniswamy , Advocate SR.No. 19219

+1cc to Mr.M.R.Raghavan , Advocate SR.No. 19558

+1 cc to Spl Government Pleader co operative Sr.No. 19718

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A.SK(04/08/2020)



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