

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.20489 of 2013
and
M.P.No.1 of 2013

P.V. Narayanaswamy

..Petitioner

- Vs -

1.The Joint Registrar of Co-operative society,
Kanchipuram Region,
Combined Co-operative Office Complex,
Vandavasi Road,
Kanchipuram

2.The Special Officer,
G.2212,Puliur Primary
Agricultural Cooperative Credit Society,
Puliur Village & Post,
Thirukalukundram Taluk,
Kancheepuram District.

3.The President,
G.2212,Puliur Primary
Agricultural Cooperative Credit Society,
Puliur Village & Post,
Thirukalukundram Taluk,
Kancheepuram District.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.2547/2013, Tho.Vae.Ku.Sa, dated 02.07.2013 and Quash the same and consequently directing the respondents to disburse the salary to the petitioner for the suspension period from 3.1.2004 to 26.08.2004 and the termination period from 27.08.2004 to till the reinstatement into service dated 30.06.2007 and for the period served by the petitioner from 1.7.2007 to 31.7.2008.

For Petitioners : Mr.C.Prakasam
For Respondents : M/S.T.Giriya , AGP

ORDER

The present writ petition has been filed by the petitioner to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.2547/2013, Tho.Vae.Ku.Sa, dated 02.07.2013 and quash the same and consequently direct the respondents to disburse the salary to the petitioner for the suspension period from 3.1.2004 to 26.08.2004 and the termination period from 27.08.2004 to till the reinstatement into service dated 30.06.2007 and for the period served by the petitioner from 1.7.2007 to 31.7.2008.

2. The case of the petitioner is that the petitioner was appointed as Secretary in the 2nd respondent Society in the year 1989. While in service, he indulged in irregularities and misappropriation in a sum of Rs.1,29,000/- for which he was placed under suspension by the second respondent on 3.1.2004 and thereafter an enquiry was conducted leading to the termination of the petitioner's service on 27.8.2004. Challenging the said termination order, the petitioner filed a Writ Petition before this Court in W.P.No. 26123 of 2004 and this Court allowed the petition on the ground that the second respondent is not the competent authority for issuing the order of terminating or suspending the petitioner from his service in the post of the Secretary of the Respondent Bank, since the petitioner is a common cadre employee and the respondent Special Officer has not been vested with the power to issue the impugned order dated 27.08.2004, terminating the service of the petitioner from the post of the Secretary of the respondent Bank and the 1st respondent alone having vested with power to take disciplinary proceedings against the common cadre employee, as per G.O.Ms.NO.55 Corporation Food and Consumer Protection Department, dated 24.03.2000. Thereafter the petitioner immediately made a representation to regularize the suspension period as well as the termination period and to pay the monetary dues. Subsequently as per the order of this court, he was reinstated in service on 25.6.2007 and after reinstatement the writ petitioner immediately made a representation seeking monetary benefits including the payment of of benefits relating to the suspension period and termination period and since no order was passed, the petitioner filed another writ petition in W.P.No.30082 of 2011 and this Court by its order dated 16.4.2013, directed the respondents to consider the petitioner's representation and pass appropriate orders. In compliance of the said order, the Joint Registrar, viz., the 1st

respondent by its impugned order dated 2.7.2013, directed the President of the Bank to disburse the benefits in favour of the petitioner. Challenging the said impugned order, the petitioner has filed this petition with the above said prayer.

3. Learned counsel appearing for the petitioner submitted that the petitioner is not aggrieved with the first part of the impugned order dated 2.7.2013, passed in favour of the petitioner, however that order did not disclose the monetary benefits with regard to the suspension period and the termination period. Aggrieved only with regard to the said portion of the order, the present writ petition is filed. Hence this Court may issue appropriate direction to the respondents to pay the benefits in favour of the petitioner within a reasonable time as fixed by this Court.

4. Learned Addl. Government Pleader appearing on behalf of the respondents submitted that the petitioner was reinstated as per the order of this Court dated 20.12.2006 in W.P.No.26123/2004, however the petitioner is not entitled to get his back wages on the concept of "No work, No Pay". However the petitioner is entitled to receive the benefits from the date of his reinstatement i.e., 1.7.2003.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. This Court, in W.P.No.26123/2004, while allowing the writ petition, specifically made it clear that the petitioner would not be automatically entitled to any monetary or other benefits, but it left to the authorities concerned to decide on the monetary or other benefits to be granted to the petitioner, if he is found eligible to claim the said benefits. In such backdrop, the authority reinstated the petitioner in service on 25.7.2013. Since no order was passed on the said representation, the petitioner came before this Court and as per the direction of this Court that representation was considered on 12.7.2013. On perusal of the impugned order dated 2.7.2013, it reveals that the first respondent directed the second respondent to pay the salary which was not paid from 30.6.07. When this Court had made it clear that it is not open to the petitioner to claim monetary benefits and it is for the authorities to decide on the same, it is not open to the petitioner to reagitate the same issue once over by filing the present petition. In fact, the impugned order is in favour of the petitioner. If at all the petitioner wants to claim any monetary benefits, the petitioner has to only move the concerned authority by filing a representation and not by way of a writ petition.

7. Learned Addl. Government Pleader for the respondents, on instructions, submitted that for the period worked by the petitioner, the respondents are willing to pay. It is further submitted that a sum of Rs.1,59,488/-, which is the salary due and payable to the petitioner from 1.7.07 to 31.7.08 and that the 2nd respondent is ready and willing to pay the said amount. In the above circumstances, the second respondent is directed to release the payment of Rs. 1,59,488/- to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

8.The writ petition is dismissed with the aforesaid observation and direction. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Joint Registrar of Co-operative society,
Kanchipuram Region,
Combined Co-operative Office Complex,
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Kanchipuram

2.The Special Officer,
G.2212,Puliur Primary
Agricultural Cooperative Credit Society,
Puliur Village & Post,
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3.The President,
G.2212,Puliur Primary
Agricultural Cooperative Credit Society,
Puliur Village & Post,
Thirukalukundram Taluk,
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+1cc to the Government Pleader, S.R.No.25634

WP.NO.20489 of 2013

LC(CO)
KKV/27/08/2020