

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14973 of 2014

C.Kalidasan

... Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development (Co-op.) Department,
Fort St.George,
Chennai - 600 009.

2.The Registrar of Housing Co-op. Societies,
Gandhi Nagar,
Chennai - 600 020.

3.The Special Officer,
The Nelli Kuppam Co-op. Housing
Societies Limited,
Nellikuppam,
Cuddalore District.

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent connected with the impugned order in G.O.(1D) No.31, Housing and Urban Development (Co-operative) Department, dated 15.02.2013 and quash the same in so far as it denied the full backwages to the petitioner during his period of suspension from 28.05.2001 to 23.11.2005 and during the period of dismissal from

24.11.2005 to 10.05.2006 and further direct the third respondent to treat the entire break in period of his service from 28.05.2001 to the date of actual reinstatement of the petitioner into his service on 22.10.2007 with continuity of service and full backwages.

For Petitioner : Mr.S.Arunachalam
for M/s.S.Arunachalam Associates

For Respondents: Mr.R.Bala Ramesh for R1 and R2
Mr.L.P.Shanmugasundaram for R3
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent connected with the impugned order in G.O.(1D) No.31, Housing and Urban Development (Co-operative) Department, dated 15.02.2013 and to quash the same in so far as it denied the full backwages to the petitioner during his period of suspension from 28.05.2001 to 23.11.2005 and during the period of dismissal from 24.11.2005 to 10.05.2006 and to further direct the third respondent to treat the entire break in period of his service from 28.05.2001 to the date of actual reinstatement of the petitioner into his service on 22.10.2007 with continuity of service and full backwages.

2.The case of the petitioner is that the petitioner joined the service of the Nellikuppam Co-operative Housing Society Limited, Nellikuppam, Cuddalore on 04.12.1971. When the petitioner was working as Secretary, he was suspended from service on 28.05.2001 by the third respondent and after enquiry, the petitioner was dismissed from service on 05.08.2002.

3.It is the further case of the petitioner that aggrieved by the same, the petitioner filed revision before the second respondent. The second respondent vide order dated 21.08.2003, set aside the dismissal order and directed for a fresh disciplinary action. However, the third respondent without reinstating the petitioner in service, placed the petitioner under suspension retrospectively from 05.08.2002 and finally dismissed the petitioner from service from 23.11.2005.

4.It is the further case of the petitioner that aggrieved by the same, the petitioner once again filed revision before the second respondent. The second respondent vide order dated 10.05.2006 set aside the dismissal order and reinstated the petitioner in service without the benefit of continuity of service and backwages and also ordered to vouch the petitioner's performance for a period of six months after reinstatement to consider his further continuance in service. Aggrieved by the same, the petitioner filed review petition before the first respondent under Section 154 of the Tamil Nadu Co-operative Societies Act. During the pendency of the review petition, the petitioner was reinstated in service 22.10.2007 and was permitted to retire from service on 31.01.2009 on attaining the age of superannuation, without settlement of any retirement benefits.

5.It is the further case of the petitioner that since the review petition was not disposed of, the petitioner filed W.P.No.28658 of 2008 before this Court and this Court vide order dated 03.12.2008 directed the first respondent to dispose of the

review petition within a time frame. Since the said order was not complied with, the petitioner filed contempt petition before this Court and thereafter, the impugned order came to be passed. Hence, this writ petition.

6.The learned counsel appearing for the petitioner would submit that there is no valid reason assigned in the impugned order. He would further submit that though the second respondent set aside the dismissal order passed by the third respondent, the second respondent

ordered to reinstate the petitioner in service without the benefit of continuity of service and backwages. Hence, this Court may set aside the orders passed by the respondents 1 and 2 and remand the matter back to the second respondent for fresh consideration.

7.The learned counsel appearing for the respondents 1 and 2 fairly conceded that there is error in the orders passed by the respondents 1 and 2 and hence, the matter may be remanded back to the second respondent for passing appropriate orders.

8.In view of the above, the order of the first respondent dated 15.02.2013 and the order of the second respondent dated 10.05.2006 are set aside and the matter is remanded back to the second respondent for fresh consideration and for passing appropriate orders.

9.The writ petition is allowed on the above terms. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Housing and Urban Development (Co-op.) Department,
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Chennai - 600 009.

2.The Registrar of Housing Co-op. Societies,
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3.The Special Officer,
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SR II(CO)
GN(07/01/2021)



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