



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.2058 of 2020

Narayanamoorthy

... Petitioner

vs.

1.The Special Officer,
O-1084 AKL, Co-operative Stores,
Arumuganeri 628 202
Tuticorin district.

2.The Deputy Registrar of Co-operative Society,
Tiruchendur,
Tuticorin District.

3.The Joint Registrar of Co-operative societies,
Tuticorin District,
Tuticorin.

4.The President / Special Officer
of Cooperative Stores,
Arumuganeri, Tuticorin.

... Respondents

** R4 has been suo moto impleaded by the learned Single Judge, vide order of this Court dated 26.02.2020.*

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to reinstate the petitioner in service based on the petitioner's representation dated 30.01.2020.

For Petitioner : Ms.K.M.Priscilla Jancy

For R-1 : Mr.M.Rajarajan,

For RR 2 & 3 : Mr.M.Jeyakumar,
Additional Government Pleader

O R D E R

When the petitioner was employed as a Salesman in the first respondent Cooperative stores, a criminal complaint came to be registered against him owing to which certain charges were levelled against the petitioner and consequently, he was dismissed from service. The charges were to the effect that the petitioner was



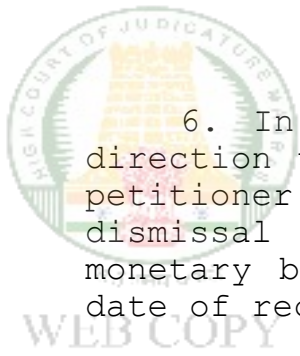
involved in a criminal case. Ultimately, the criminal case registered against the petitioner ended in acquittal through judgment dated 07.12.2019 passed in C.C.No.918 of 2017 by the learned Judicial Magistrate - III, Thoothukudi.

2. In view of his acquittal, the petitioner herein has approached this Court seeking for reinstatement into service, since his request for reinstatement before the respondents was not considered. This Court, by an order dated 14.11.2019 passed in W.P. (MD) No.6152 of 2011 had directed the first respondent herein to reinstate the petitioner. However, such a direction was not complied with, which necessitated the petitioner to file the present writ petition.

3. The learned counsel for the petitioner would submit that in view of the specific directions of this Court to reinstate him into service, the respondents have not adhered to the same. According to her, the original charges were levelled only for the petitioner's involvement in a criminal case and in view of his acquittal thereafter, the charges itself cannot be sustained and therefore, the petitioner would be entitled to be reinstated back into services.

4. The learned Government Advocate would submit that this Court, in its earlier order dated 14.11.2019 had granted liberty to the respondents to initiate further fresh departmental proceedings and therefore, the petitioner's reinstatement does not require to be given consideration. Learned Additional Government Pleader appearing for respondents 2 and 3 reiterated the same and submitted that there is no infirmity in not reinstating the petitioner.

5. I am not in appreciation of the conduct of the respondents in failing to reinstate the petitioner inspite of specific direction of this Court in its order dated 14.11.2019 passed in W.P.(MD) No.6152 of 2011. It is no doubt true that this Court, while directing the respondents to reinstate the petitioner, had also granted the liberty to proceed against the petitioner, if required. However, such a liberty will not empower the respondents to desist from reinstating the petitioner back into his services. If at all the respondents are of the view that fresh proceedings could be initiated, it would give rise to a fresh cause of action. The present reinstatement ordered by this Court, on 14.11.2019, is in view of the petitioner's acquittal from the criminal proceedings and on the findings that the petitioner's entitlement would accrue from the date of acquittal onwards. While that being so, the appropriate option available to the respondents would be to reinstate the petitioner in conformity with the orders of this Court dated 14.11.2019 and thereafter, in case they choose to departmentally proceed against the petitioner, it would be open to them in view of the liberty granted by this Court. As such, the in-action on the part of the respondents herein, failing to reinstate the petitioner back into services, is illegal.



6. In the light of the above observations, there will be a direction to the first respondent herein to forthwith reinstate the petitioner back into services, with effect from the date of dismissal (i.e.) from 26.11.2008, together with all service and monetary benefits, atleast within a period of four weeks from the date of receipt of a copy of this order.

7. At this juncture, the learned counsel for the petitioner would submit that the post of the first respondent is vacant and the appropriate Authority to issue such orders would be the President / Special Officer of Cooperative Stores, Arumuganeri, Tuticorin. In case, the post of first respondent is vacant as claimed, the President/ Special Officer shall adhere to the directions issued in this order. For this limited purpose, the President / Special Officer of Cooperative Stores, Arumuganeri, Tuticorin is *suo moto* impleaded as a party respondent.

8. With the above directions, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (ADI)

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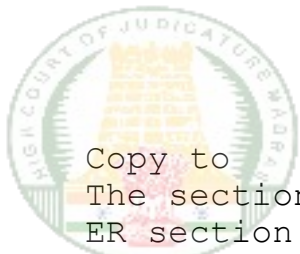
/ /2020

Sub Assistant Registrar(CS)

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To:

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Tuticorin district.
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- 4.The President / Special Officer
OF Cooperative Stores,
Arumuganeri, Tuticorin.



Copy to
The section officer,
ER section

Madurai Bench of madras high court
madurai

(directed to implead the President / Special Officer of
Cooperative Stores, Arumuganeri, Tuticorin as the fourth respondent,
as per the orders of this Court dated 26.02.2020.)

+1 CC to M/s.SPL.GP (SR-8769[F] dated 27/02/2020)

+1 CC to M/s.K.M.PRISILLA JANCY, Advocate (SR-9235[F] dated
28/02/2020)

W.P.(MD)No.2058 of 2020
26.02.2020

KB(20/03/2020) 4P 7C