



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) .No.6651 of 2020

Veera Sundari

.. Petitioner

Vs.

- 1) The Joint Registrar of Cooperative Society,
O/o Regional Joint Registrar of Cooperative Society,
Thanjavur Region,
Medical College Road, Thanjavur.
- 2) The Deputy Registrar of Cooperative Society,
Pattukottai,
Thanjavur District.
- 3) The Secretary,
T.1030, Thamarankottai Primary
Agricultural Cooperative Credit Society Ltd.,
Thamarankottai,
Pattukottai Taluk, Thanjavur District.

.. Respondents

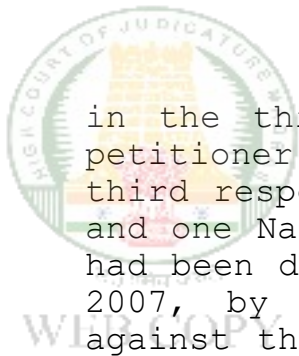
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of impugned order passed by the 2nd respondent by its proceeding in Na.Ka. No.304/2019/Pu.Ma., dated 16.10.2019 and quash the same and consequently, directing the 1st and 2nd respondents to set aside the order of dismissal of the petitioner's husband in the light of co-delinquents orders in Na.Ka. No.4712/Sa.Pa., dated 11.03.2015 and G.O.(D) No.211, 14.12.2018 and consequently, to settle retirement and other monetary benefits of the petitioner's husband to the petitioner.

For Petitioner	: Mr.M.Viji,
	For Mr.S.Deenadhayalan
For Respondents	: Mr.K.Mu.Muthu,
	Additional Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2nd respondent by its proceeding in Na.Ka.No.304/2019/Pu.Ma., dated 16.10.2019 and quash the same and consequently, to issue a direction to the 1st and 2nd respondents to set aside the order of dismissal of the petitioner's husband in the light of co-delinquents orders in Na.Ka.No.4712/Sa.Pa., dated 11.03.2015 and G.O.(D) No.211, 14.12.2018 and consequently, to settle retirement and other monetary benefits of the petitioner's husband to the petitioner.

2. The petitioner's husband was working as Assistant Secretary

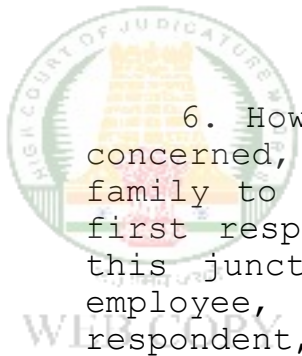


in the third respondent Society. During the year 2007, when the petitioner's husband was working as Assistant Secretary in the third respondent Society, one Gothandapani was working as Secretary and one Nagarajan was working as Cashier in the said Society. There had been departmental proceedings, which were initiated in the year 2007, by the Special Officer of the third respondent Society, against the petitioner's husband and two other persons referred to above, alleging that, they have caused monetary loss to the Society. In continuation of the same, disciplinary action has also been initiated and on 16.02.2009, the Special Officer of the third respondent Society, has passed the final order in the disciplinary proceeding, wherein, the petitioner's husband as well as other two persons viz. Gothandapani and Nagarajan were dismissed from service.

3. Simultaneously, a criminal case was also filed in Crime.No.1 of 2009 by the Inspector of Police, CCIW, Thanjavur against the petitioner's husband and two other persons and after investigation, a final report was also filed in this regard. It was taken on record by the learned Judicial Magistrate, Pattukottai in C.C.No.1262 of 2009. After the trial, all the three persons have been acquitted by the Criminal Court.

4. In the meanwhile, as against the order of dismissal passed by the Special Officer of the third respondent Society against the three persons, dated 16.02.2009, separate revision petitions were filed under Section 153 of the Tamil Nadu Cooperative Societies Act, before the first respondent. In this regard, it is the claim of the petitioner that the petitioner's husband, on 28.12.2010, preferred a revision under Section 153 of the Act before the first respondent, for which, he had also paid a fee of Rs.100/- and a challan to that effect for having paid the said fee is also included in the typed set of papers. The pendency of the revision which was already filed on 28.12.2010 also was reminded by the petitioner's husband to the respondents subsequently on 08.12.2011. A copy of the said reminder letter has also been included in the typed set of papers.

5. However, during the pendency of the revision, as no progress seems to have been made in the revision, the petitioner's husband died on 10.09.2013. Thereafter, the petitioner came to know that the revision petitions filed by the other two persons viz., Gothandapani and Nagarajan, who were working as Secretary and Cashier respectively, at the third respondent Society, were allowed by the first respondent, by order dated 11.03.2015, and in continuation of allowing of those revision petitions, on 14.12.2018, the earlier dismissal order passed against those two persons were set aside and they have been reduced to lower rank, pursuant to which, they have been taken back to the Society and thereafter, on superannuation, those two persons were understood to have retired from service on superannuation and they are also getting the retirement and pensionary benefits.

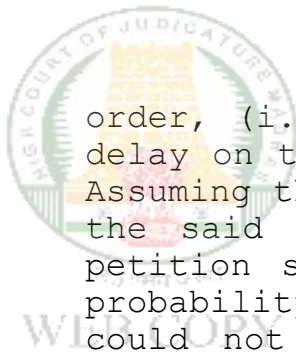


6. However, insofar as the case of the petitioner's husband is concerned, since he died on 10.09.2013, no one was there in the family to pursue the pending revision petition, pending before the first respondent, filed under Section 153 of the Act and only at this juncture, the petitioner, who was a widow of the deceased employee, whose revision was filed and pending before the first respondent, has approached the second respondent to pass a similar order in the revision preferred by her husband and to allow the revision filed by her husband, as in the case of other two persons, whose revisions as have been stated above, have already been allowed and the petitioner's husband can be notionally, on record basis, be brought on service and accordingly, on superannuation or on death, his retiral and pensionary benefits could be allowed. However, the said request made by the petitioner has been rejected by the second respondent through the impugned order dated 16.10.2019. Challenging the said order of rejection, the present writ petition has been filed.

7. Heard Mr.M.Viji, learned counsel appearing on behalf of Mr.S.Deenadhayalan, learned counsel appearing for the petitioner, who would submit that, the revision petition was filed by the petitioner's husband during his life time on 28.12.2010. However, a copy of the said revision has not been kept by the petitioner's husband or the petitioner is not in a position to trace the copy of the revision now. However, the petitioner is able to produce the copy of the reminder letter dated 08.12.2011 as well as the postal receipt to establish the fact that the revision was filed on 28.12.2010 and also the challan, to show the payment of the fee paid for the said revision dated 28.12.2010.

8. Learned counsel for the petitioner would further submit that, these documents would combinedly go to show that, a revision was filed by the petitioner's husband on 28.12.2010. Therefore, the said reason cited by the second respondent in the impugned order that, the revision, either was not filed by the petitioner's husband or, no such revision was pending in the records of the first respondent, cannot be countenanced. Therefore, the impugned order is liable to be interfered with and necessary direction shall be given to the respondents to dispose of the revision petition for record purpose and consequently or as a sequel, direct them to release the retiral benefits, including the pension payable to the petitioner's husband in favour of the petitioner.

9. However, Mr.K.Mu.Muthu, learned Additional Government Pleader appearing for the respondents would submit that, though it was claimed by the petitioner that the petitioner's husband filed a revision on 28.12.2010, no such revision petition is pending on the records of the Revisional Authority and assuming that the postal receipt as well as the challan showing the date as if on 28.12.2010, a revision was filed, that itself is a belated one, as the revision



order, (i.e.) dated 16.02.2009. Therefore, there had been a huge delay on the part of the petitioner's husband to file the revision. Assuming that the revision was filed on 28.12.2010 and for condoning the said delay, since no steps seem to have been taken or no petition seems to have been filed by the petitioner's husband, in all probability, the revision, if at all anything filed on 28.12.2010, could not have been taken on file by the Revisional Authority. Therefore, effectually there is no revision either filed or pending before the Revisional Authority. Therefore, the question of considering such revision at this length of time does not arise. Hence, the reasons cited in the impugned order is fully justifiable and sustainable. Accordingly, the impugned order does not require any interference, he contended.

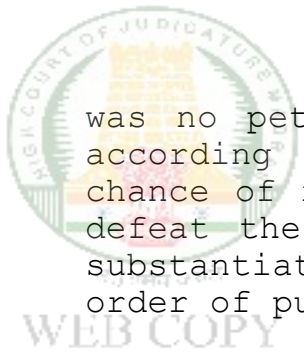
10. I have considered the submissions made by the learned counsel appearing on either sides and perused the materials placed before this Court.

11. It is an admitted fact that, there were three delinquents, including the petitioner's husband, against whom disciplinary proceedings were initiated and all the three were dismissed from service from the third respondent Society. A criminal case has also been filed against all the three, which, after trial, ended in acquittal.

12. Insofar as the disciplinary proceedings which ended in punishment of dismissal of service against all the three persons, other two persons, viz., Gothandapani and Nagarajan had preferred revisions, whose revisions have also been allowed and they seem to have been taken back into service and on superannuation, they were permitted to retire and accordingly, they were also receiving the retiral benefits, including pension.

13. Insofar as the petitioner's husband is concerned, it is the claim of the petitioner that, based on the available records, on 28.12.2010, of course belatedly, a revision was filed by the petitioner's husband. In support of her contention, the petitioner is able to produce the reminder letter dated 08.12.2011 and also the postal receipt to show that, on 28.12.2010, it has been posted through registered post. Also, the petitioner is able to produce the challan dated 28.12.2010, wherein, the rubber stamp affixed therein shows that "Tl;Lwt[r';f';fspd; Jizg; gjpthsh; mYtyfk;. gl;Lf;nfh;l;il" which means, Office of the Deputy Registrar of Cooperative Societies, Pattukottai, received on 28.12.2010. Therefore, this clearly shows that, the revision was filed on 28.12.2010 at the office of the second respondent, who is the Revisional Authority and thereafter, whether the revision petition was taken on file or not is not known.

14. Assuming that the revision dated 28.12.2010 is a belated revision, even so, the limitation period of 90 days, for which, there



was no petition to condone the said delay since have been filed, according to the respondents, therefore, there could have been a chance of not even taking on record of the revision, that will not defeat the claim of the petitioner, as the petitioner is able to substantiate that her husband has filed the revision against the order of punishment of dismissal from service on 28.12.2010.

15. There is no doubt that there has been a revision filed on 28.12.2010 and if it is a belated one, either it could have been returned with a proof to show that there was no condone delay petition or on that ground, even before entertaining the revision, that could have been rejected. But on the side of the respondents, no such proof has been filed. Otherwise, the Revision Authority could have condoned the delay and entertained the revision, if at all this has been entertained as such, definitely, the revision also would have been decided on merits along with other two revisions filed by the co-delinquents.

16. Since nothing has happened in this case, meanwhile in the year 2013, the petitioner's husband also died suddenly and the family of the petitioner could have been shocked and shaken by the same. So it will take some reasonable period to examine all those things, and the petitioner, being a lady and a widow, has now come forward by making an application to the second respondent on 17.07.2019 to pass orders on the revision and to allow the petitioner to get retirement benefits of the deceased petitioner's husband, including pension.

17. The said efforts taken by the petitioner side, in the considered opinion of this Court, is flawless and therefore, it should be accepted as a genuine one.

18. When that being the position, this Court has no hesitation to hold that there has been a revision filed on 28.12.2010 on behalf of the petitioner's husband and there has been enough proof to show that, on that date, the revision has been filed against the order of punishment awarded against him. Therefore, in all fairness, the said revision should have been considered on merits and decided, since similar revisions filed by other co-delinquents have been allowed by the Revision Authority, and therefore, this could also been allowed.

19. If the said revision filed by the petitioner's husband is allowed, the logical conclusion would be that, the petitioner's husband would also be entitled to get the service benefits as that of the other two co-delinquents. Therefore, there is every justification on the part of the petitioner to seek the claim, as has been made by her in the representation dated 17.07.2019. Therefore, the said representation ought to have been considered objectively. Hence, the rejection now made through the impugned order dated 16.10.2019, in the considered opinion of this Court, is accordingly, it is liable to be interfered with.



20. In the result, the following orders are passed in the writ petition:

(i) The impugned order passed by the 2nd respondent vide proceeding made in Na.Ka.No.304/2019/Pu.Ma., dated 16.10.2019 is hereby quashed; and

(ii) The matter is remitted back to the respondent, especially the Revisional Authority, who shall pass necessary orders on the revision filed by the petitioner's husband, based on the available records and once, an order is passed on the revision, in favour of the petitioner's husband, it is needless to mention that the petitioner shall be entitled to get the service benefits payable to the petitioner's husband, which includes the pensionary benefits and that shall also be granted to the petitioner, within a period of three months from the date of receipt of a copy of this order.

21. With all these directions, the writ petition is ordered, as per the terms indicated above. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

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Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

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O/o Regional Joint Registrar of Cooperative Society,
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- 2) The Deputy Registrar of Cooperative Society,
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