



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition (MD)No.18277 of 2020

C.Dakshinamoorthy

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Madurai Region,
Madurai District.

2.The President,
A-2561, Achampatu Primary Agricultural
Co-operative Credit Society,
Achampathu,
Madurai 625 019.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.2334/2020 Sa.Pa. Dated 20.11.2020 on the file of the first respondent and to quash the same and consequently direct the first respondent to decide the revision petition dated 20.05.2020 on merit within the time frame.

For Petitioner : Mr.S.Kumar

For R1 : Mr.K.P.Narayanakumar
Special Government Pleader

For R2 : Mr.C.Ramar
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order passed by the first respondent in Na.Ka.No.2334/2020 Sa.Pa. dated 20.11.2020 and to quash the same and consequently direct the first respondent to decide the revision petition, dated 20.05.2020.

2. The petitioner has filed the present writ petition challenging the impugned order passed by the first respondent, dated 20.11.2020, wherein the first respondent rejected the petition filed by the petitioner to condone the delay of 76 days in filing the revision against the order passed by the second respondent, dated 06.12.2019.



3. It is the case of the petitioner that he has submitted a petition to the second respondent for voluntary retirement on 29.11.2018 and thereafter, he withdrawn the voluntary retirement petition on 24.01.2019. On 06.12.2019, the second respondent has sent a communication to the petitioner stating that his voluntary retirement petition dated 29.11.2018 was treated as resignation and resolution was also passed on 29.11.2018, to that effect. Subsequent to the communication, dated 06.12.2019, the petitioner has sent representations dated 20.02.2020 and 18.03.2020 to the second respondent. Thereafter, he has filed a revision petition before the first respondent, on 20.05.2020, with delay and the same is neither wilful nor wanton. However, the said revision petition was rejected by the first respondent, vide impugned communication dated 20.11.2020, on the ground of limitation.

4. The learned counsel appearing for the petitioner submitted that beyond the period of 90 days, the revision petition will be considered and in this regard, he referred the order passed by this Court in ***W.P.No.18934 of 2013***, dated ***11.07.2013 (S.Aruna v. The Registrar of Co-operative Societies and two others)***, wherein, it is stated as follows:

"9.As rightly pointed out by the learned Counsel for the petitioner, the second respondent did not apply his mind to the facts of the case. When the petitioner categorically stated that the orders promoting the juniors were not served on him and he collected the materials through RTI Act and in that process, there was a delay of 52 days in filing the revision, the second respondent ought to have considered the same while deciding the application to condone the delay.

10. The learned counsel for the petitioner has relied on a decision of this Court in ***N.P.Palanisamy vs. State of Tamil Nadu rep. By Secretary to Government, Food and Co-operation Department, Fort St. George, Chennai -2 and others*** reported in ***2012 (4) CTC 257*** wherein in para Nos.25 and 26, it has been stated as follows:

"25.After having elaborately dealt with number of judgments of the Hon'ble Supreme Court and various High Courts, the Division Bench ultimately answered the questions as follows:

"24.Section 153 of 1983 Act is a departure from S.97 of the 1961 Act and it is wider in nature. Power has been specifically conferred on the Revisional Authority under S.153 to call for and examine the record of any proceeding under the Act or the Rules or the bye-laws of any officer subordinate to the Registrar or of the Board of Director or any officer of a registered society or of the Competent Authority constituted under S.75(3) of the 1983 Act.

<https://hcservices.efforts.gov.in/hcservices/> the employees of a Co-operative Society can



approach the Registrar or any competent Authority under S.153 to revise any order passed by the Co-operative Society relating to disciplinary action taken against him or denial of promotion or wrong fixation of seniority, etc.

(v) There is no implied ouster of the jurisdiction of the power of the Labour Court/ Industrial Tribunal to deal with similar matters if disputes are raised before them by workmen or employees covered by those provisions. Both remedies are available."

26. From the above judgment, it is crystal clear that an employee of a Co-operative Society has got remedies available both under the provision of the Tamil Nadu Co-operative Societies Act as well as under the Industrial Disputes Act. In a given case, suppose, an employee who has got both remedies available for him approaches the Labour Court by raising an industrial dispute regarding his termination from service, under the Industrial Disputes Act, there is no limitation and therefore, he can raise the dispute within a reasonable time. If for any reason, he chooses to file a Revision under Section 153 of the Act, belatedly, it cannot be said that his remedy is barred by limitation. It cannot be said that while enacting Section 153 of the Act, legislature was unaware of the provisions of the Industrial Disputes Act. When there is no period of limitation for an employee to raise an industrial dispute, I am firm in my view that there shall be no such period of limitation for him to file a Revision under the Co-operative Societies Act. Therefore, if we read Section 153 of the Act, in the context of the remedies available under the Industrial Disputes Act, it will surely give the impression that what is contained in the proviso to Section 153 of the Act, is not at all mandatory and it is only directory."

Therefore, he contended that even beyond the period of 90 days, the second respondent is empowered to condone the delay and hence, he prayed for allowing this writ petition.

5. Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for the first respondent submitted that under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, the petitioner can file a revision petition only within a period of 90 days and beyond the period of 90 days, no revision can be entertained and hence, the first respondent does not have any power to condone the delay.

6. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the first respondent, learned counsel appearing for the second respondent and perused the



7. On perusal of the order passed by this Court, dated 11.07.2013, in W.P.No.18934 of 2013, it appears that the limitation period referred under Section 153 of the said Act is only directory and not mandatory and thus, observed that the revision filed beyond the period of 90 days can be entertained. Therefore, this Court do not find any impediment for the first respondent to entertain the revision petition. Accordingly, this Writ Petition is allowed and the impugned order passed the first respondent, dated 20.11.2020 is set aside. Consequently, the matter is remitted back to the first respondent for considering the revision petition filed by the petitioner afresh on merits and pass orders in accordance with law. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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

1.The Joint Registrar of Co-operative Societies,
Madurai Region,
Madurai District.

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TP (CO)

NR (18/01/2020) 4P : 2C