

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P. No.1498 of 2021

and

W.MP.No.1692 of 2021

J.Thangavel

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Kancheepuram,
Vandavasi Salai,
Opp: Collector Office,
Kancheepuram, Kancheepuram district.

2.The President,
G 175, Oragadam Primary Agricultural Cooperative
Credit Societies,
Chengalpet Circle, Chengalpet,
Chengalpet district.

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified mandamus, to call for the records relating to the rejection order passed in Na.Ka.No.4471/2019/sapa(2) dated 14.05.2020 and quash the same and consequently direct the 1st respondent not to recover the salary amount paid to the petitioner.

For Petitioner : Mr. R.Karunakaran

For Respondents : Mr.L.P.Shanmugasundaram, Spl.G.P.

ORDER

This writ petition was filed by the petitioner to call for the records relating to the rejection order passed in Na.Ka.No.4471/2019/sapa(2) dated 14.05.2020 and quash the same and consequently direct the 1st respondent not to recover the salary amount paid to the petitioner.

2. It is the case of the petitioner that he was appointed as Clerk in the 2nd respondent society in the year 1993 and thereafter he was promoted as Senior Clerk in the year 2000 and

subsequently he was promoted as Assistant Secretary. It is the further case of the petitioner that subsequent to the promotion as Assistant Secretary, he was suspended from service on 03.08.2019, on the ground that he had received the excess salary illegally. According to the petitioner, the alleged excess salary was paid to him on the basis of the concluded settlement under Section 12(3) of the Industrial Disputes Act, in which charge memo was served on him. Though the petitioner has given a detailed explanation to the charge memo, not satisfied with his explanation, the 2nd respondent framed two charges and surcharge proceedings dated 11.12.2020 were initiated against him. Aggrieved by the surcharge proceedings, he preferred an appeal before the Competent Court, besides filing a revision petition against the alleged charges before the Joint Registrar, Kancheepuram. The Joint Registrar rejected the revision by passing a non speaking order. Subsequently, the Deputy Registrar passed an order under Section 87 for initiation of surcharge proceedings against the President, the Secretary and 10 Directors of the society. Whiles, the 2nd respondent, being the President of the society was found guilty by the Deputy Registrar in the surcharge proceedings, he was issued another charge memo dated 30.11.2020 stating the similar charges found in the earlier memo dated 30.09.2019. Though the petitioner has submitted his explanation to the second show cause notice given by the 2nd respondent, which has not been considered, hence left with no other alternative, the petitioner is before this Court.

3.This Court heard the submissions made by learned counsel on either side and also perused the materials available on records.

4. The petitioner filed this writ petition against the Cooperative Society and therefore the writ petition is not maintainable in view of the judgment of this Court in the case of K.Marappan Vs. The Deputy Registrar of Cooperative Societies, Nammakkal Circle, Nammakkal and another, reported in 2006-4-L.W.42. That apart, the petitioner will have to face the charges and defend his case before the appropriate enquiry officer, as the petitioner, as the Assistant Secretary, has signed the settlement in respect of revision of wages for which the disciplinary action has been initiated. He can prefer all the defense before the appropriate authority, who shall take into account various statements raised by the petitioner and come to the conclusion with regard to the charges framed against him.

5.The petitioner submitted that during the pendency of the writ petition, yet another charge sheet has been given. As cited supra, this Court cannot go into the factual aspect, with regard to the charges issued against the petitioner. Even assuming that

charges leveled against him are false and has no basis, it is open to the petitioner to put forth all his submissions only before the appropriate authority and the Writ Court is not an alternative forum.

6. Accordingly this writ petition stands dismissed. Consequently connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Joint Registrar of Cooperative Societies,
Kancheepuram,
Vandavasi Salai,
Opp: Collector Office,
Kancheepuram, Kancheepuram district.
2. The President,
G 175, Oragadam Primary Agricultural Cooperative
Credit Societies, Chengalpet Circle, Chengalpet,
Chengalpet district.

+1cc to Mr.R.Karunagaran, Advocate, S.R.No. 4413
+1cc to the Special Government Pleader, S.R.No. 4198

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GPL (CO)
GN (15/04/2021)

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