



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 15608 of 2012

K.Azhaguraja

... Petitioner

Vs.

1.The Management / Special Officer
Tirunelveli, Thani
75, Valasamudiram Primary Agricultural
Co-operative Credit Society, Valasamudiram,
Tirunelveli District.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the award passed by the Second Respondent herein in I.D.No.41 of 2011 dated 19.07.2012 and quash the same and consequently, direct the First Respondent to reinstate the petitioner with backwages, continuity of service and all other attendant benefits.

For Petitioner	:	Ms. M. Sreela for M/s. D. Geetha
For R1	:	Mr. A. K. Baskara Pandian

ORDER

Heard Ms. Sreela, Learned Counsel appearing for the Petitioner and Mr. A. K. Baskara Pandian, Learned Counsel appearing for the First Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. Learned Counsel for the Petitioner filed a memo dated 21.06.2021 through e-mail in which it is stated as follows:

"1. The Petitioner had preferred the above mentioned Writ Petition praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the Award of the Second Respondent in I.D No. 41 of 2011 dated 19.07.2012, quash the same and consequently direct the First Respondent to reinstate the Petitioner with back



wages, continuity of service and all other attendant benefits.

2. It is admitted that, at the time of his termination from service on 27.01.2010, the Petitioner was employed as Secretary of the First Respondent Co-operative Society. It is also admitted that, in the Industrial Dispute proceedings before the Second Respondent, the said fact was presented by the First Petitioner as an objection regarding maintainability of the dispute but was not framed as a preliminary issue for determination by the Second Respondent.

3. The only preliminary issue that was framed by the Second Respondent was in respect of fairness and propriety of the Internal Enquiry initiated by the First Respondent, and the same was decided in the Petitioner's favour. However, when the First Respondent was subsequently granted an opportunity to prove the charges against the Petitioner, the First Respondent did not lead any fresh evidence and instead relied entirely on the records of the Internal Enquiry that had already been set aside as not fair and proper. The Second Respondent failed to hold such evidence as inadmissible and went on to pass the Impugned Award denying reinstatement and attendant benefits.

4. In light of the above facts and question of law as to maintainability of the industrial dispute raised by the Petitioner, the Impugned Award ought to be deemed null and void as per settled law. Since an alternative remedy is available to the Petitioner under the Tamil Nadu Co-operative Societies Act, he is willing to pursue the same, without favour or prejudice on account of findings rendered in the Award that is impugned in the present Writ Petition.

This Hon'ble Court may be pleased to take on record the above submissions and pass appropriate Orders, permitting the Petitioner to withdraw the above mentioned Writ Petition and granting liberty to pursue alternative remedy without being barred by laches and in a manner that is not prejudiced by the Impugned Proceedings of the Second Respondent herein."

In view of the same, the Writ Petition is dismissed as withdrawn granting liberty to the Petitioner to challenge the Order dated 27.01.2010 passed by the First Respondent terminating the Petitioner from service in an application for revision under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, before the concerned Registrar of Co-operative Societies, who shall determine the same

<https://hccservicescourts.gov.in/cases> uninhibited by the impugned order in this Writ



Petition. It is made clear that for the purpose of reckoning limitation in availing that remedy, the period from the date of raising the industrial dispute before the Second Respondent till the date on which the certified copy of this order is made ready by the Registry shall be excluded. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NS/SRM

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

The Presiding Officer,
Labour Court,
Tirunelveli.

W.P. (MD) No. 15608 of 2012
21.06.2021

ls(CO)
TR(09.07.2021) 3P 2C