



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P(MD) No. 5654 of 2013 and
M.P(MD) .No. 1 of 2014**

S. Saraswathi : Petitioner

.vs.

1. The Joint Registrar of Co-operative Societies,
Theni.

2. DD137, Lakshmipuram Primary Agricultural
Co-operative Credit Society,
rep. By its Special Officer,
Lakshmipuram, Periyakulam Taluk,
Theni District.

3. K.Radhakrishnan : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.5268/2012, Sa.Pa. Dated 15.03.2013, quash the same and direct the respondents to reinstate the petitioner in service with back wages and all attendant benefits.

For Petitioner : Mr.M. Saravanan

For Respondents 1 & 2 : Mr.D.Sasikumar
Additional Government Pleader

For 3rd respondent : Mr.B. Vinoth kumar

O R D E R

The Writ petition has been filed to quash the impugned order passed by the 1st respondent in Na.Ka.No.5268/2012Sa.Pa. dated 15.03.2013 and direct the respondents to reinstate the petitioner in service with back wages and all attendant benefits.

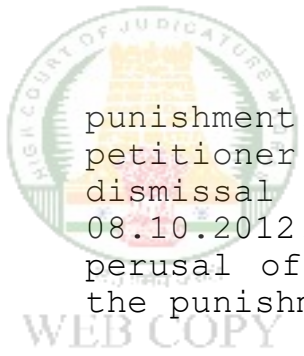
2. The petitioner was working as a salesman in Lakshmipuram-1 Fair Price shops, which comes under 2nd respondent /
<https://hcservices.ecourts.gov.in/hcservices/>



Society from 01.08.1991. A charge memo was issued alleging that the petitioner was in possession of Anthoyodaya Annayojana Scheme Cards (herein after referred as AAY Scheme) and the said scheme is meant for the people who come under the below poverty line. The petitioner using the said cards has obtained essential commodities from the fair price shop in which the petitioner was working. The petitioner submitted an explanation stating that the petitioner's husband deserted her and she is living separately and she is having 13 years old son whom she has to take care of. In the year 2005, the petitioner obtained Family Card No.23/G/024/1313 for the purpose of her son's studies. The Enquiry Officer found that the petitioner is in possession of two "family cards" under AAY schemes and was enjoying the benefits of that card and obtained all essential commodities. The Enquiry Officer has held the charges are proved and the disciplinary authority has terminated the service of the petitioner from 08.10.2012.

3. The petitioner submitted a revision under Section 153 of Tamil Nadu Co-operative Societies Act before the first respondent on 19.10.2012. He has also filed a Writ Petition in W.P (MD).No.430 of 2013 seeking mandamus to dispose the revision and this Court vide order, dated 09.01.2013 directed the first respondent to dispose the revision within a week. Thereafter, the petitioner issued Contempt notice and the first respondent sent an anti-dated order mechanically rejecting the revision. Challenging the revision order dated 15.03.2013, the present petition is filed and the consequential prayer of reinstatement in service with back wages and all attendant benefits were sought for.

4. The first respondent has filed a detailed counter and has stated that the Writ Petitioner is receiving the salary of Rs.9,044/- per month. Therefore, she is not coming under the category of below poverty line and she is in possession of two AAY Family Cards bearing No.23/G/024113 given in the name of the petitioner was attached to the fair shops in which she has worked. Another one bearing No. 23/G/0241270 in the name of the petitioner's husband Srinivasan and the same was attached nearby Sarathupatti Arivoli fair price shop. Under the AAY scheme, the family card is entitled to get 35 Kgs of rice per month. Whereas the card holders above the poverty line are eligible for 20 Kgs rice only. The petitioner has purchased under the AAY family Cards to the tune of Rs.23,053.25/-. Therefore, the petitioner was suspended from service and disciplinary proceedings were initiated. A charge memo was issued and the petitioner submitted her explanation and Enquiry Officer was appointed and adequate opportunity was given to the Writ Petitioner and the petitioner herself defended the case by cross examining the Management representative and full and fair opportunity was granted. The Enquiry Officer has submitted his finding on 31.08.2012 and the charges were held as proved. A second show cause notice, dated 06.09.2012, was issued calling for explanation for imposing major



punishment. Again an opportunity for hearing was granted and the petitioner attended the hearing. Thereafter, the punishment of dismissal from service was imposed through a letter, dated 08.10.2012. The petitioner preferred a revision petition. On perusal of the entire records, the revisional authority confirmed the punishments. Aggrieved over the Writ Petition is filed.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. The petitioner counsel alleged the respondent themselves are not clear in their allegations whether the petitioner is in possession of two cards under AAY Scheme or three cards. Hence, this Court directed the Learned Additional Government Pleader to clarify and produce evidence before this Court. The respondents produced the extract of Distribution Register wherein it has been clearly stated the Card No.23/G/0241270 is in the name of Srinivasan and the Card No.23/G/024113 is in the name of the petitioner. It was also pointed out that the last column would indicate the signature of the person who received the commodities and on perusing both the cards it is seen that the petitioner has affixed the signature. Therefore, it is clear it is only two cards and not three cards. It is also clear that the petitioner used both the cards and received the commodities through both the cards and it is not the petitioner's husband who has received the commodities as alleged by the petitioner. It is also seen that the petitioner has received Card No.241313 to be used in her own fair price shop. It clearly amounts to misusing the office as sales woman and gained unauthorizedly.

7. The petitioner has raised a ground stating she was denied to examine the sales woman of Sarathupattu fair price shops, but the respondents have stated that the petitioner has examined and cross examined the witness. Therefore, this Court reject the plea that she was not allowed to examine sales women. Moreover this Court is of the opinion that the extract of the Distribution Register clearly indicates that the petitioner has signed in both the cards and obtained commodities. The second allegation the petitioner has raised is one R. Mohan was appointed as Presiding Officer for the enquiry. But, it is seen from the records one Radhakrishnan was appointed as an Enquiry Officer. Therefore, that plea is also rejected.

8. On perusing the Distribution Register submitted by the learned Additional Government Pleader it is clear the petitioner has used two AAY Family Cards and unlawfully gained by receiving the commodities to the tune of Rs.23,053.25/- which would amount to mis-appropriation of Government Funds. Therefore, this Court confirms the order of the disciplinary authority as well as the order of Revisional authority.



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9. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

trp

To

The Joint Registrar of Co-operative Societies,
Theni.

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M.P (MD) .No. 1 of 2014

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