



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.7747 of 2021

and

W.M.P (MD) No.5891 of 2021

WEB COPY

K.Saravanan

... Petitioner

-Vs-

- 1.The Joint Registrar of Co-operative Societies,
O/o.the Joint Registrar of Co-operative Societies,
Theni Region, Theni District.
- 2.The Deputy Registrar of Co-operative Societies,
O/o.the Deputy Registrar of Co-operative Societies,
Vaigaidam Road, JRR Nagar,
Periyakulam, Theni District.
- 3.The President,
A-1805/Theni Allinagaram Municipality Employees
Co-operative Thrift and Credit Society,
Vijayabarathi Complex, Allinagaram,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relating to the impugned order passed by the third respondent in his proceedings Nil dated 28.12.2020 and quash the same as illegal.

For Petitioner: Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

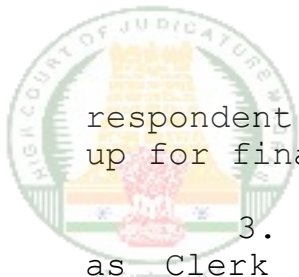
For R1 & R2 : Mr.P.Mahendran
Additional Government Pleader

For R3 : Mr.C.Ramar
Additional Government Pleader

ORDER

This Writ Petition is filed to call for the records relating to the impugned order passed by the third respondent in his proceedings Nil, dated 28.12.2020, and quash the same as illegal.

2.Mr.P.Mahendran, learned Additional Government Pleader takes notice on behalf of the respondents 1 & 2 and Mr.C.Ramar, learned Additional Government Pleader takes notice on behalf of the third



respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioner, initially he was appointed as Clerk on 01.10.1999 and while he was working as Secretary Incharge in A.1805, Theni Allinagaram Municipality Co-operative Thrift and Credit Society, Allinagaram, Theni District, a charge memo was issued to him, for certain delinquencies and ultimately, it was culminated in the order of dismissal from service on 10.06.2014. Aggrieved by the said order of dismissal, he filed an appeal before the Deputy Commissioner of Labour, Dindigul. The Deputy Commissioner of Labour, Dindigul, allowed the appeal filed by the petitioner and set aside the order of dismissal. Against the order of setting aside the dismissal, the respondent society filed a writ petition in W.P(MD)No.13578 of 2016. By order dated 13.02.2018, this Court dismissed the said writ petition. Challenging the order of the dismissal, the respondent filed writ appeal in W.A(MD)No.1297 of 2018 and the same was also dismissed by this Court on 18.09.2019. Though he was reinstated into service on 06.05.2020, he was not paid with salary from 01.09.2020 to 28.12.2020. Thereafter, vide proceedings Nil, dated 28.12.2020, the third respondent placed the petitioner under suspension. The petitioner has made representation on 03.03.2021, seeking to revoke the suspension. The impugned order of suspension was passed on 28.12.2020. Now, 3 months have been lapsed and the petitioner was not reinstated into service. The currency of a suspension order may not go beyond the period of three months. No charge memo was issued so far to the petitioner with regard to any allegation. As per the judgment of the Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291**, prolonged suspension for indefinite period is bad in law. As per the judgment of the Hon'ble Apex Court referred to above, the currency of a suspension order should not extend beyond three months. If within this period the Memorandum of Charges/Charge sheet is not served on the delinquent Officer/employee, if the Memorandaum of Charges/Chargesheet is served, a reasoned order must be passed for the extension of the suspension. In so far as the present case is concerned, the petitioner was neither served with any charge memo within the period of 3 months nor communicated with any order for extension of suspension period and therefore, the respondents may be directed to revoke the suspension and reinstate the petitioner into service with all monetary benefits.

4.Mr.C.Ramar, learned Additional Government Pleader appearing for the third respondent submitted that the petitioner has misappropriated a huge amount and the departmental enquiry relating to grave charges is contemplated and if suspension order is set aside, the petitioner will tamper with the documents and influence the witnesses and prayed for dismissal of the writ petition.



5. From the above materials, it is seen that earlier, the petitioner was suspended and dismissed from service on 10.06.2014 and the said order of dismissal was set aside by order dated 24.05.2016, by the Deputy Commissioner of Labour, Dindigul. The said order was confirmed by this Court, by dismissing the writ petition in W.P(MD)No.13578 of 2016 and writ appeal in W.A(MD) No.1297 of 2018 filed by the third respondent. Even after setting aside the order of dismissal, the petitioner was not reinstated into service immediately, but he was reinstated into service only on 06.05.2020. Within seven (7) months of reinstatement of the petitioner, the third respondent suspended him in contemplation of domestic enquiry. The third respondent has not served any charge memo within three months from the date of suspension. Further, as per the judgment of **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291**, when an employee was suspended from service in contemplation of domestic enquiry, charge memo must be served within three months from the date of suspension. If employer fails to serve the charge memo within three months, the order of suspension has to be revoked. The Hon'ble Apex Court has deprecated the practice of keeping an employee under prolonged suspension. In view of the judgment of the Hon'ble Apex Court, the impugned order of the third respondent, dated 28.12.2020, is liable to be set aside and is hereby set aside. The respondents are directed to revoke the order of suspension by taking into consideration the fact that the petitioner is under suspension from 28.12.2020 and the ratio laid down in the judgment of the Hon'ble Apex Court in **Ajay Kumar Choudhary Vs. Union of India** reported in **(2015) 7 SCC 291**, within a period of four weeks from the date of receipt of a copy of this order. It is open to the third respondent to initiate domestic enquiry, if he so desires, as per law.

6. With the above directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

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

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Co-operative Thrift and Credit Society,
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Theni District.

+1 CC to M/s.SPL GP (SR-18072[F] dated 29/04/2021)

+1 CC to M/s.AJAMAL ASSOCIATES, Advocate (SR-18097[F] dated
30/04/2021)

W.P. (MD) No. 7747 of 2021

28.04.2021

ES (CO)

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