



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.8297 of 2021

Selvam

... Petitioner

vs.

- 1.The Joint Registrar,
Office of the Joint Registrar of Co-operative Societies,
Thanjavur Region,
Thanjavur District.
 - 2.The Deputy Registrar,
Office of the deputy Registrar of Co-operative Societies,
Kumbakonam,
Thanjavur District.
 - 3.The President,
Z637, Swamimalai Primary Agriculture Co-operative
Credit Society Limited,
Swamimalai Post,
Kumbakonam Taluk,
Thanjavur District.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 22.10.2019 seeking reinstatement into service.

For Petitioner : Mr.N.Anadakumar

For RR 1 & 2 : Mr.P.Mahendran
Additional Government Pleader

For R - 3 : Mr.Niranjan S.Kumar

ORDER

This Writ Petition is filed seeking for a Writ of Mandamus, directing the respondents to consider the representation of the petitioner, dated 22.10.2019, seeking reinstatement into service.

2.Mr.P.Mahendran, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2 and Mr.Niranjan S.Kumar, learned counsel accepts notice on behalf of the third respondent.



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

4.According to the petitioner, while he was working as a Secretary in the third respondent Society, he was placed under suspension with effect from 31.05.2018. A criminal case in Crime No.167 of 2018 was registered against the petitioner.

5.The learned counsel appearing for the petitioner submitted that on 31.05.2018, the petitioner was placed under suspension. The respondents have not commenced any domestic enquiry and in criminal case, no charge-sheet is filed. The learned counsel further submitted that the third respondent also did not pay any subsistence allowance to the petitioner. The petitioner has given representation, dated 22.10.2019 to the second respondent to reinstate him in service. Further, the petitioner filed a Writ Petition in W.P(MD)No.17767 of 2020, seeking subsistence allowance to him from the date of his suspension, dated 31.05.2018, based on the representation, dated 05.10.2020. This Court, by order dated 07.12.2020, directed the third respondent to consider the representation of the petitioner and disposed of the Writ Petition. The second respondent has not passed any order so far. Hence, the petitioner has come out with the present Writ Petition.

6.Mr.P.Mahendran, learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that the third respondent filed a Writ Petition in W.P(MD)No.2243 of 2020, to direct the first respondent therein to open the safety locker and store room in Z-637 Swamimalai Primary Agricultural Co-operative Society and to take note of the money and jewels and other articles available in the store room and safety locker and hand over the same to the Society for its effective function based on the recommendation given by the second respondent therein dated 22.11.2019. The petitioner herein is the fourth respondent in the said Writ Petition and this Court, by order dated 02.03.2020, directed the petitioner to co-operate in the proceedings and also for opening the safety locker. As per the order of this Court passed in the said Writ Petition, the petitioner is not co-operating for opening the safety locker of the third respondent. In view of the non co-operation of the petitioner, the third respondent is not in a position to run the Society peacefully and prayed for dismissal of the Writ Petition.

7.The learned counsel appearing for the petitioner now submitted that the petitioner will co-operate in the proceedings and also for opening the safety locker.

8.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.



9.From the materials available on record, it is seen that the petitioner was placed under suspension on 31.05.2018 and his suspension is continued till date and no domestic enquiry is commenced and in Crime No.167 of 2018, no charge-sheet is filed. The Hon'ble Apex Court deprecated the progress of continuing an employee under suspension for a prolonged period. In the judgment reported in **Ajay Kumar Choudhary Vs. Union of India and another** reported in **(2015) 7 SCC 291**, the Hon'ble Apex Court held that if an employee is suspended in contemplation of domestic enquiry, charge-memo must be served on him within 30 days. If no charge-memo is served on the delinquent officer/employee, suspension order must be revoked. If charge-memo is served, reason must be given for extending the suspension. In case of registration of a criminal case, if no charge-sheet is filed within 90 days, the employee is entitled to revocation of suspension order.

10.In the present case, the petitioner was suspended on 31.05.2018. Further, no domestic enquiry has been commenced till date and no charge-memo has been filed in the criminal case.

11.For the above reasons, the petitioner is directed to give a fresh representation to the respondents for revocation of suspension order within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the third respondent is directed to consider the representation of the petitioner, dated 22.10.2019 and pass orders in consonance with the Judgment of the Hon'ble Apex Court in **Ajay Kumar Choudary's case** (cited supra), within a period of four weeks, thereafter. The petitioner is directed to co-operate in the proceedings and for opening the safety locker. The petitioner is also directed to co-operate in the day-to-day affairs of the Society.

12.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar(CS)

Ps



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

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- 3.The President,
Z637, Swamimalai Primary Agriculture Co-operative
Credit Society Limited,
Swamimalai Post, Kumbakonam Taluk,
Thanjavur District.

1CC TO MR. NIRANJAN S.KUMAR, ADVOCATE SR17109
1CC TO THE SPL GOVT PLEADER SR 17384

GS
05/05/2021
4P/6C

**W.P (MD) No. 8297 of 2021
22.04.2021**