



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.8460 of 2021

V.Sundaravel

... Petitioner

vs.

1.The Joint Registrar of Co-operative Societies,
Nagercoil - 629 001,
Kanyakumari,
Kanyakumari District.

2.The President,
Azhagiapandipuram Primary Agricultural
Co-operative Credit Society,
Azhagiapandipuram,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the first respondent vide proceedings in Na.Ka.No.339/2021/Sa.Pa, dated 05.03.2021, quash the same and further direct the first respondent Joint Registrar herein to take the petitioner's Revision Petition, dated 13.01.2021 on file and pass final orders on merits within a reasonable time.

For Petitioner : Mr.T.Cibi Chakraborty

For R - 1 : Mr.C.Ramar
Additional Government Pleader

For R - 2 : Mr.B.Bhagavathi
Government Advocate

ORDER

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent, vide proceedings in Na.Ka.No.339/2021/Sa.Pa, dated 05.03.2021 and further directing the first respondent to take the petitioner's Revision Petition, dated 13.01.2021, on file and pass final orders on merits within a reasonable time.

2.Mr.C.Ramar, learned Additional Government Pleader accepts notice on behalf of the first respondent and Mr.B.Bhagavathi, learned Government Advocate accepts notice on behalf of the second



respondent.

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

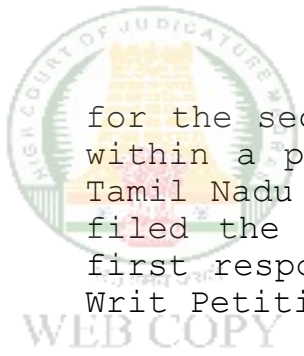
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4.According to the petitioner, he was initially appointed as Clerk in the second respondent Society and after periodical promotions, he was promoted as Secretary on 01.08.2011. While so, the second respondent suspended the petitioner on 25.10.2018. Aggrieved over the same, the petitioner preferred a revision before the first respondent under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, on 10.01.2019. The first respondent allowed the revision petition, by setting aside the suspension order, by proceedings, dated 29.09.2020. In the meantime, the second respondent issued charge memos, dated 16.11.2018 and 17.11.2018 to the petitioner. Without receiving any explanation to the charges, the second respondent, vide proceedings dated 08.03.2019, dismissed the petitioner from service, based on the Board Resolution, dated 08.03.2019. Aggrieved over the dismissal order, dated 08.03.2019, the petitioner took steps to file a revision before the first respondent within the time limit prescribed in the Act and Rules, but, due to Covid-19 Pandemic situation, he was not in a position to file the revision in time. Subsequently, the petitioner filed a revision before the first respondent on 13.01.2021. The first respondent, vide proceedings, dated 05.03.2021, rejected the revision filed by the petitioner on the ground of delay. Challenging the said order, dated 05.03.2021, the petitioner has come out with the present Writ Petition.

5.The learned counsel appearing for the petitioner contended that the revision filed by the petitioner challenging the order of suspension was pending before the first respondent and the same was allowed only on 29.09.2020. In the meanwhile, due to Covid-19 pandemic situation, the petitioner could not file the appeal on time.

6.In support of his contention, the learned counsel appearing for the petitioner relied on the decision of this Court in ***N.P.Palanisamy Vs. State of Tamil Nadu and others*** reported in **2012 (4) CTC 257** and the learned counsel also relied on the order of this Court, dated 01.03.2018, made in ***W.P.No.4641 of 2018 (K.Perumal Vs. The Joint Registrar of Co-operative Societies and another)*** and contended that the limitation period referred under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, is only directory and not mandatory.

7.Both the learned Additional Government Pleader appearing for the first respondent and the learned Government Advocate appearing



for the second respondent submitted that the appeal has to be filed within a period of 90 days as prescribed under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, but, the petitioner has filed the revision with delay and hence, the order passed by the first respondent is valid and legal and prayed for dismissal of the Writ Petition.

8.Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first respondent and the learned Government Advocate appearing for the second respondent.

9.An employee of a Co-operative Society has a right to file revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, before the first respondent, challenging the order passed adverse to him. As per proviso to Section 153(1) of the Act, the revision has to be filed within 90 days. The issue whether the time limit fixed is mandatory or directory, came up for consideration before this Court in ***N.P.Palanisamy Vs. State of Tamil Nadu and others*** reported in ***2012 (4) CTC 257***, which was relied on by the learned counsel for the petitioner and this Court held that the time limit fixed is only directory and not mandatory. At the same time, this Court held that revision has to be filed within a reasonable time and what is the reasonable time can be decided only based on the facts and circumstances of each case. In the present case, the petitioner was dismissed from service on 08.03.2019 and the order of dismissal was received on 01.04.2019 and the petitioner filed revision on 13.01.2021, after one year and 10 months of the order of dismissal.

10.From the materials available on record, it is seen that the petitioner was suspended from service on 25.10.2018 and the revision filed by the petitioner, challenging the order of suspension, was pending till 29.09.2020 and the same was allowed only on 29.09.2020. The learned counsel for the petitioner submitted that in the meanwhile, due to Covid-19 pandemic situation, the petitioner could not file revision within the time limit fixed. The said contention of the learned counsel for the petitioner is acceptable.

11.Accordingly, the impugned order passed by the first respondent, dated 05.03.2021, is set aside and the matter is remitted back to the first respondent, for considering the revision filed by the petitioner, after affording sufficient opportunity to both the parties, including personal hearing and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



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

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Sd/-

Assistant Registrar (T&P)

/ /2021

Sub Assistant Registrar(CS)

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.

PS

To

1. The Joint Registrar of Co-operative Societies,
Nagercoil - 629 001,
Kanyakumari,
Kanyakumari District.

2. The President,
Azhagiapandipuram Primary Agricultural
Co-operative Credit Society,
Azhagiapandipuram,
Kanyakumari District.

+1 CC to M/s.T.CIBI CHAKRABORTHY, Advocate (SR-17458[F] dated 26/04/2021)

+1 CC to M/s.SPL GP (SR-17714[F] dated 27/04/2021)

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26.04.2021

GS (20.05.2021) 4P 5C