



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2021

C O R A M

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 14183 of 2014

WEB COPY

C. Poonuchamy

... Petitioner

-vs-

1. The Joint Registrar of Co-operative Societies,
Dindigul Region,
Dindigul.

2. The Management,
DD 534, Kampalipatti Primary Agricultural Co-operative Credit
Society Ltd.,
Kampalipatti,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in proceedings in Revision Petition in Na. Ka. 7651/2011/SaPa. quash the order dated 30.05.2014 passed therein by the First Respondent and also quash the order dated 08.11.2011 passed by the Second Respondent dismissing the Petitioner from service, and direct the Second Respondent to pay gratuity and other retirement benefits to the Petitioner.

For Petitioner	:	Mr. T. Ravichandran
For R1	:	Mr. B. Saravanan, Counsel for Government of Tamil Nadu
For R2	:	Mr. D. Shanmugaraja Sethupathy

O R D E R
(through video conference)

Heard Mr. T. Ravichandran, Learned Counsel for the Petitioner and Mr. B. Saravanan, Learned Counsel representing the First Respondent and Mr. D. Shanmugaraja Sethupathy, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who was employed as Secretary in the Co-operative Society of the Second Respondent, had been dismissed from service by order dated 08.11.2011 pursuant to the disciplinary proceedings initiated against him for certain charges of misconduct. The revision filed by the Petitioner under Section



153 of the Tamil Nadu Co-operative Societies Act, 1983, before the First Respondent was rejected by Order No. Na. Ka. 7651/2011/Sapa dated 30.05.2014 confirming the order of dismissal passed by the Second Respondent. The Petitioner has filed this Writ Petition challenging the said orders.

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3. The pivotal contention of the Petitioner in this Writ Petition is that after the Petitioner had attained the age of superannuation on 31.03.2011, the Second Respondent proceeded with the disciplinary proceedings thereafter without any enabling provisions for its continuance, which vitiates the entire proceedings.

4. Having regard to the aforesaid submission made on behalf of the Petitioner, it would be necessary to straightaway refer to the decision of the Full Bench of this Court in **S.Andiyannan -vs- Joint Registrar, Co-operative Societies, Madurai** [(2015) 3 LW 513] where the following question of law was referred:-

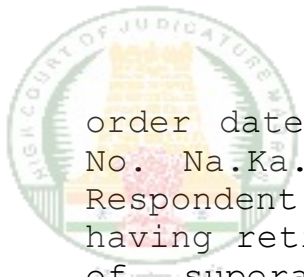
"1. Whether the disciplinary proceedings initiated against an employee of a co-operative society, governed by the Tamil Nadu Co-operative Societies Act, 1983, could be continued even after retirement of the said employee?"

The Full Bench of this Court had answered that reference in the following words:-

"30.Under the Tamil Nadu Co-operative Societies Act, 1983, once an employee retired from service, there could be no authority vested with the employer for continuing any disciplinary proceeding, in the absence of relevant service Rules permitting the employer to continue the disciplinary proceeding. In other words, if there is no service Rules or bye-law of the society empowering the employer to continue the departmental proceeding, the employer, would have no authority to continue the departmental proceeding after the retirement of the employee."

It is brought to notice that amendments have been made to the bye-laws of the Co-operative Society of the Second Respondent with effect from 29.11.2012 enabling the continuance of disciplinary proceedings after attaining the age of superannuation of an employee and that no such provision existed prior to that date. Inasmuch as the Petitioner attained the age of superannuation on 31.03.2011, the amended bye-laws would not get attracted to the case of the Petitioner. This would obviously mean that the continuance of disciplinary proceedings in this case after the Petitioner attained the age of superannuation is without jurisdiction and cannot be sustained.

<https://hcservices.gov.in/Services/Files/CaseDetails.aspx?CaseNo=14183of2014> of the foregoing discussion is that the impugned



order dated 08.11.2011 passed by the Second Respondent and Order No. Na.Ka.7651/ 2011/Sapa dated 30.05.2014 passed by the First Respondent are set aside and the Petitioner shall be treated as having retired from service on 31.03.2011 when he attained the age of superannuation and shall be entitled to receive all consequential benefits arising therefrom. The Second Respondent shall make payment of the monetary benefits that the Petitioner is entitled along with the working-sheet showing the calculation for the same and report of compliance in that regard shall be filed by 31.12.2021 before the Registrar (Judicial) of this Court.

In the upshot, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

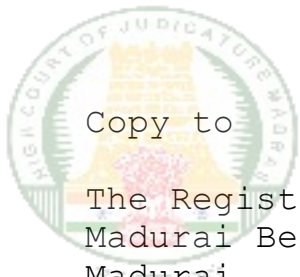
sm/vjt

Note: (i) Issue order copy by 15.09.2021.

(ii) 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

1. The Joint Registrar of Co-operative Societies,
Dindigul Region,
Dindigul.
2. The Management,
DD 534, Kampalipatti Primary Agricultural Co-operative Credit
Society Ltd.,
Kampalipatti,
Dindigul District.



Copy to

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

+1 CC to M/s.D.SHANMUGARAJ SETHUIP[ATHI, Advocate (SR-24074[F]
dated 27/07/2021)

+1 CC to M/s.SPL GP (SR-24183[F] dated 28/07/2021)

W.P. (MD) No. 14183 of 2014
27.07.2021
1/2

NSN(CO)
SB(15.09.2021) 4P 6C