



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 5784 of 2014 and

M.P(MD) .Nos.1 and 2 of 2014

WEB COPY

N. Kalaipandi

:Petitioner

.vs.

1.The Joint Registrar of Co-operative Societies,
Revisional Authority,
Sivagangai Region,
Sivagangai.

2.The Special Officer,
N.N.552 Kannangudi Primary Agricultural Cooperative
Credit Society,
Kappalur,
Kannagudi Post,
Devakottai Taluk,
Sivagangai District.

3.The President,
N.N.552 Kannangudi Primary Agricultural Cooperative
Credit Society,
Kappalur,
Kannagudi Post,
Devakottai Taluk,
Sivagangai District.

4.The Secretary,
N.N.552 Kannangudi Primary Agricultural Cooperative
Credit Society,
Kappalur,
Kannagudi Post,
Devakottai Taluk,
Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order made in Na.Ka.No.1/2007 Pa.Tho. Dated 10.08.2007 issued by the 2nd respondent made in Na.Ka.No.5635/2010/Sa.Pa. Dated 20.09.2012 and quash the same and consequently, direct the 2nd respondent to reinstate the petitioner in the office of the 4th respondent as Cashier with continuity services, with all back wages.



For Petitioner
For R1

: Mr.P.R. Prithivi Raj
: Mr.N. Ramesh Arumugam
Government Advocate (Civil Side)

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O R D E R

This petition has been filed to quash the impugned order made in Na.Ka.No.1/2007 Pa.Tho, dated 10.08.2007 issued by the 2nd respondent made in Na.Ka.No.5635/2010/Sa.Pa. dated 20.09.2012 and consequently, direct the 2nd respondent to reinstate the petitioner in the office of the 4th respondent as Cashier with continuity of services, with all back wages.

2. The petitioner was appointed in the 4th respondent Society on 15.10.1988, then, promoted as Cashier on 29.11.2003 and served for 20 years without any remarks. The second respondent issued a charge memo, dated 19.03.2007 for certain irregularities. The main allegation is that the petitioner misappropriated the Societies amount to the tune of Rs.5,50,391/- in respect of jewel loan without issuing receipt for returning the jewels and that he was suspended on 01.03.2007 and thereafter, he submitted explanation with the respondent. It is the specific allegation of the petitioner that he was awaiting for summons from the Enquiry Officer. But, he did not receive any summon. He came to know about the dismissal from service through some other person. Therefore, he applied under Right to Information Act and obtained order of dismissal, dated 10.08.2007. The petitioner claims that the Enquiry Officer's report is dated 10.08.2007. Without issuing second show cause notice, the petitioner was dismissed from service on the very next date on 09.08.2007. He has also stated that he has not been paid any subsistence allowance. Against the dismissal order, the petitioner preferred the review petition under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 on 26.05.2010. Since there was a delay the revision petition was returned by the authority. Aggrieved over, the petitioner filed W.P(MD).No.10149 of 2010 before this Court and this Court vide order, dated 05.08.2010 directed the revisional authority to accept the petition and pass orders confirming the dismissal order without application of mind.

3. The respondents have filed counter stating that the allegations against the writ petitioner is serious and grave one. The Enquiry Officer has sent notices to the last known address of the petitioner. But the same were returned as "addressee left without intimation". Therefore, left with no other option, the Enquiry Officer concluded the enquiry based on the available records and has submitted a report on 09.08.2007 stating the charges levelled against the petitioner are proved. Based on the Enquiry report, the appointing authority has passed the dismissal order on



the very next day i.e., 10.08.2007. The petitioner has submitted a representation under Section 153 of the Tamil Nadu Co-operative Societies Act and the first respondent heard the petitioner and thereafter, the revisional order was passed.

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

5. It is seen from the records that the petitioner has given official address in the Writ Petition and not the residential address. It is the specific plea of the respondents that they have sent notices to the petitioner to the last known address, but the claim of the petitioner is that he did not receive any notice. Moreover, it is the specific allegation of the petitioner that the enquiry report was passed on 09.08.2007 without giving any second notice imposing major punishment, the appointing authority has passed the order of dismissal on the very next day on 10.08.2007. Even the revisional authority has not applied his mind properly before deciding this issue. There are total procedural lapses in the entire enquiry proceedings.

6. Therefore, this Court is remitting the entire case back to the second respondent. The second respondent shall appoint new Enquiry Officer and fresh enquiry shall be conducted after issuing proper notice, following all procedural formalities and then pass orders. Since the Writ Petitioner has given only official address in the Writ Petition, the Writ Petitioner is directed to give the proper residential address to the respondents. By way of abundant caution, the Writ Petitioner's residential address is appended along with this order.

N.Kalaipandian,
S/o. Natarajan,
10, Subramaniyapuram,
3rd Street, Karaikudi,
Sivagangai,

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed,

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

trp

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



To

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+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-36364[F] dated 29/11/2021)

+1 CC to M/s.SPL GP (SR-36055[F] dated 26/11/2021)

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TSK(CO)

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