



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.23265 of 2021
and
W.M.P. (MD) Nos.19684 & 19686

B.Madasamy .. Petitioner

-vs-

- 1.The Registrar of Co-operative Societies,
Chennai.
- 2.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-opearative Societies,
Thoothukudi District.
- 3.The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar of Co-operative Societies,
Kovilpatti, Thoothukudi District.
- 4.The President,
TN.SPL 55, Kadambur Primary Agricultural
Co-operative Credit Society Limited,
Kadambur, Thoothukudi District.
- 5.Junior Co-operative Auditor,
Vilathikulam, Thoothukudi District. .. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 4th respondent in unnumbered proceedings, dated 28.12.2020, quash the same and consequently direct the respondents 2 to 4 to permit the petitioner to join the service.

For Petitioner : Mr.Musthafakhan.M

For Respondents : Mr.M.Sarangan,
Additional Government Pleader

**ORDER**

Even before entering into a detailed discussion, I must state that I am not impressed with the nature of the writ petition filed.

2.The petitioner has been placed under suspension by way of impugned order dated 28.12.2020. It is no longer *res integra* that an order of suspension does not sever employer-employee relationship. The relationship still stands. The petitioner still continues to be an employee of his organisation. He was an employee even prior to the date of suspension. Suspension is also not a punishment. It is only a request to the petitioner to stay away till charges are framed and enquiry is conducted with respect to the allegations against him.

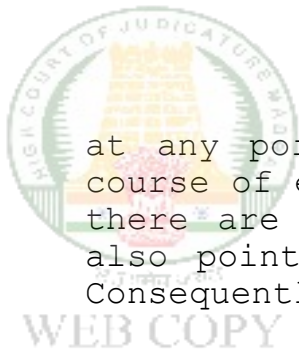
3.It is stated by the learned counsel for the petitioner that charges had been framed but enquiry had not commenced for the past one year. The date of suspension was 28.12.2020. It is also the claim of the petitioner that subsistence allowance has not been paid to the petitioner. It is the further claim of the learned counsel for the petitioner that the suspension itself has to be interfered with, since it was passed on an audit wherein, it was found that there was a default in the returns shown with respect to the sales of the fair price shop to the extent of Rs.11,00,000/- and the petitioner, being a salesman, naturally had to give necessary explanation to account for such default in the amounts shown towards the sales. It is claimed that the said audit order was passed after a period of six months and that therefore, it is violative of the rules.

4.These are all the points which the petitioner can take during the enquiry and I am, therefore, not interfering with the order of suspension, but I would rather give a direction to the 4th respondent to examine the issue of payment of subsistence allowance, and pay the subsistence allowance, whatever is allowable and payable to the petitioner herein.

5.Surprisingly, the issue of suspension had been taken up after one year after the date of suspension. The matter had been filed only in the vacation court.

6.The 4th respondent is directed to initiate necessary disciplinary proceedings by issuing charge memo to the petitioner herein and proceed further in manner known by following due principles of natural justice. The enquiry shall be commenced on or before 21.01.2022.

7.With the aforesaid observation, this Writ Petition stands dismissed. The issue, of whether the audit order can be invoked after a period of six months or whether the order can be challenged



at any point of time, may be taken by the petitioner during the course of enquiry. The petitioner can also examine the audit and if there are any errors apparent on the face of the records, he may also point out the same during the course of enquiry. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

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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+1 CC to M/s.SPL GP (SR-40547[F] dated 31/12/2021)

W.P. (MD) No.23265 of 2021

Dated: 29.12.2021

ps (CO)

TR(06.01.2022) 3P 7C