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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)NOS.1408 and 1409 OF 2017

P.Balasubramaniyan :Appellant/Petitioner in both
Writ Appeals

.vs.

1.The Registrar of Co-operative Societies,
Chennai.

2.The Joint Registrar of Co-operative Societies,
Dindigul District.

3.The Deputy Registrar of Co-operative Societies,
Palani. : Respondents/Respondents in
both Writ Appeals.

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent praying this Court to set aside the orders passed by this Court in W.P(MD)Nos.6607 of 2009 and W.P(MD)No.1021 of 2011, both dated 31.07.2007.

Prayer in WP(MD). 6607 of 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus,calling for records relating with the order of 3rd respondnet in Na.Ka.1528/88 P.T dt. 17/02/1988 and the same was upheld by 2nd respondent in Na.Ka.No. 1905/88 SP.dt. 15/12/1988 on some other reason and quash the same and in consequence direct the respondent to reinstate me in service wtih all attendant benefits.

Prayer in WP(MD). 1021 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating with the order of 1st respondent made in Na.ka.Ko.68045/2010 patho3 dt. 29/10/2010 and quash the same and in consequence directing the respondents to reinstate the petitioner in service with all attendant benefits from 17/02/1988.



For Appellant
in both W.As'

:Mr.R.Suriyanarayanan

For Respondents
in both W.As'

:Mr.M.Murugan
Govt.Advocate

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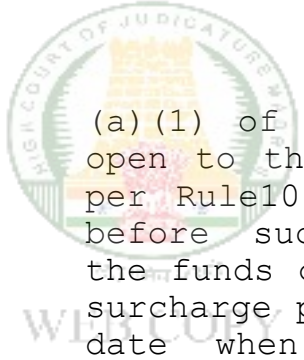
COMMON JUDGMENT

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

These Writ Appeals are filed challenging the common order passed by this Court in W.P(MD)No.6607 of 2009 and W.P(MD)No.1021 of 2011, dated 31.07.2007.

2.The Writ Petitioner, who is the appellant herein, was appointed as Special Officer in Manjanaickenpatti, Poduvarpatti and Devathur Primary Agricultural Society on 27.12.1985 for a limited period of six months, which had been periodically extended. Whiles, the third respondent terminated the service of the appellant on 17.2.1988 vide proceedings in Na.Ka.No.1528/88 PT. On 26.9.1988, the appellant sent a petition to the first respondent to consider his representation and set to aside the order of termination passed by the third respondent. The same was forwarded to the second respondent and on 15.12.1988, the second respondent passed an order stating that there was an allegation of misappropriation against the Writ Appellant and his request for revocation was rejected under Section 65 of the 'Act'. Therefore, the request of the appellant to set aside the order of termination cannot be considered. The said order refusing to set aside the termination order is challenged by the appellant in W.P.No.6607 of 2009. It is the further case of the appellant that a criminal case in C.C.No.46 of 1989, on the file of Judicial Magistrate NO.III, Madurai, ended in his favour and he was acquitted honourably on 30.12.2009. Thereafter, the appellant had sent a representation on 19.01.2009 along with a copy of the order made in C.C.No.46 of 1989 to the respondents. But the respondents did not consider the representation and hence, the appellant had filed W.P.NO.1228 of 2010 seeking a direction for the disposal of the said representation from this Court. Pursuant to the same, the respondents had passed an order on 29.10.2010 stating that the Writ Appellant had been appointed under Section 10(a)(i) for a limited period and he had been removed from service under Section 10(a)(v) and not required to assign any reason. Aggrieved by the said order, dated 29.10.2010, the appellant had filed W.P.No.1021 of 2011. The said Writ Petitions were heard together by the learned Single Judge and by order, dated 31.7.2017, the said Writ Petitions were dismissed and aggrieved over the same, the above Writ Appeals are filed.

3.It is to be noted that when the Writ Petitioner was appointed as a Special Officer in the temporary post under Rule 10



(a) (1) of the Tamil Nadu State and Subordinate Service Rules, it is open to them to terminate the service of the Writ Petitioner, as per Rule 10(a) (v) of the above said Rules. It is found that even before such appointment, he served as Secretary and misappropriated the funds of the Society, for which, a criminal case was lodged and surcharge proceedings were initiated. It is also stated that on the date when the termination order was served, no surcharge proceedings were initiated. The only reason assigned by the learned counsel for the appellant is that he has been acquitted honourably in the criminal case, which was the reason for refusing to set aside the termination order. The appellant has challenged the order dated 17.2.1988 only after ten years, though the subsequent order dated 29.10.2010 was challenged immediately. The learned Single Judge had considered in detail about the rights and reliefs available to the appellant under Article 311(2) of the Constitution of India and dismissed the Writ Petitions. Admittedly, when the appointment itself is only contractual and since the termination is based on the negligence of the employee, he cannot seek for protection from the Court. The Writ Petitions were dismissed only on the grounds of delay and laches. Now the Writ Appellant is seeking reinstatement into service after a period of thirty years. Admittedly, the appellant is retired from service and no purpose would be served if the appellant is reinstated into service and it is only for claiming wages without doing any work.

4. In such circumstances, we do not propose to interfere with the order of the learned Single Judge and accordingly, the Writ Appeals stand dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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

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

1. The Registrar of Co-operative Societies,
Chennai.



2.The Joint Registrar of Co-operative Societies,
Dindigul District.

3.The Deputy Registrar of Co-operative Societies,
Palani.

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+1 CC to M/s.SPL GP (SR-8421[F] dated 03/03/2021)

COMMON JUDGMENT MADE IN
W.A(MD)NOS.1408 and
1409 OF 2017
02.03.2021

VB (15.03.2021) 4P 5C