



W.P.No.1352 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1352 of 2015

K.Singaravelu
President
T 788, Thiruthuraipoondi Pimary Cooperative
Agriculture and Rural Development Bank Ltd.,
Samiappa Nagar,
Thiruthuraipoondi Taluk. ...Petitioner

Vs

1.Joint Registrar of Cooperative Societies,
Collectorate Complex,
Tiruvarur.
2.R.Thiyagarajan ...Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the order dated 10.09.2012 made in Na.Ka.4981/2010/Sapa on the file of the first respondent herein and quash the same.

For Petitioner	: Mr.C.Munusamy
For R1	: Mrs.S.Anitha Special Government Pleader
For R2	: Mr.A.Praveen Kumar for Mr.P.Anbarasan



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ORDER

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The order passed by the first respondent in proceedings dated 10.09.2012 is under challenge in the present writ petition.

2. The petitioner is the President of the Cooperative Society, who filed the writ petition challenging the order passed by the revisional authority to set aside the dismissal order passed by the management of the Cooperative Society, dismissing the services of the second respondent herein, who is working as a Supervisor in the Cooperative Society.

3. The petitioner states that the second respondent committed certain serious irregularities causing monetary loss to the petitioner Society. A charge memo was issued and a domestic enquiry was conducted. The Enquiry Officer provided opportunity to the second respondent to defend his case. After considering the documents and evidences available on record, the Enquiry Officer submitted his report holding that the charges against the second respondent are proved. Based on the proven charges, the disciplinary authority imposed the punishment of dismissal from service.



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4. The said order of dismissal was taken by way of a revision before the first respondent by the second respondent under Section 153 of the Tamil Nadu Cooperative Societies Act. The first respondent conducted an enquiry and passed the impugned order dated 10.09.2012, setting aside the order of dismissal, mainly on the ground that the second respondent employee was due to retire from service on 31.05.2011 and the disciplinary proceedings continued after his retirement and the order of dismissal was passed after the retirement of the second respondent. Therefore, the order of dismissal cannot be sustained.

5. In other words, the first respondent revisional authority sets aside the order of dismissal mainly on the ground that the said order of dismissal was passed beyond the date of superannuation of the second respondent employee and after attaining the age of superannuation, the employer-employee relationship did not exist between the petitioner management and the second respondent and therefore, the dismissal order cannot be sustained.

6. The learned counsel for the petitioner contended that the findings in this regard by the revisional authority are factually



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incorrect. The order of dismissal was issued in proceedings dated 07.04.2008 and even presuming that it was passed on 07.04.2010, as mistakenly stated in the impugned order dated 10.09.2012, the date of superannuation of the second respondent employee was on 31.05.2011 and therefore, the second respondent employee was very much holding a lean with the petitioner Society. The date of passing of the dismissal order is falling before the date of superannuation and therefore, the employer-employee relationship existed on the date of passing of the dismissal order and thus, the very reason stated for setting aside the order of dismissal is factually incorrect and on that ground, the order impugned is to be quashed.

7. The first respondent has not adjudicated the merits of the matter. When the first respondent-revisional authority formed an opinion that the order of dismissal was passed beyond the date of superannuation, the said order of dismissal was set aside as there was no employer-employee relationship existed. However, such a finding given for the purpose of setting aside the order of dismissal is incorrect as the order of dismissal, as per the petitioner, was passed on 07.04.2008 and even as per the impugned order, it was passed on 07.04.2010, which is falling before the date of superannuation.



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8. This being the factum, the impugned order cannot be sustained. Accordingly, the impugned order passed by the first respondent dated 10.09.2012 is quashed and the matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to restore the revision petition and conduct an enquiry by affording opportunity to the management of the Cooperative Society as well as the employee concerned and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, preferably within a period of 4 months from the date of receipt of a copy of this order.

9. With the above observations, the Writ Petition stands allowed.

No costs.

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Index:Yes
Internet:Yes
Speaking order
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S.M.SUBRAMANIAM, J.

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To

The Joint Registrar of Cooperative Societies,
Collectorate Complex,
Tiruvavarur [PO] & [Dt].

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