



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.7739 of 2022

R.Annadurai

... Petitioner

vs.

1.The Joint Registrar of Co-operative Societies,
Tiruvannamalai,Tiruvannamalai District.

2.The Management of H.H.538,
Desur Primary Agricultural
Co-operative Credit Society,
Rep. by its President, Desur,
Vandavasi Taluk,
Tiruvannamalai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to consider the representation dated 22.04.2021 and 29.09.2021 made by the petitioner herein to set aside the suspension order dated 20.02.2021 issued by the 2nd respondent herein and pass appropriate orders within a stipulated time fixed by this Court.

For Petitioner : Mr.T.Sundaravadanam

For R1 : Mrs.S.Anitha
Special Government Pleader

O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to consider the representation dated 22.04.2021 and 29.09.2021 made by the petitioner, to set aside the suspension order dated 20.02.2021 issued by the 2nd respondent.



3. The case of the petitioner in brief:

The petitioner had been working in the second respondent Society for the past 24 years. On 19.02.2021, FIR was registered against the petitioner by Vigilance and Anti Corruption, Tiruvannamalai, alleging that he demanded a sum of Rs.5000/- as bribe from one Sridevi and in view of the same, he was suspended from service on 20.02.2021 by the 2nd respondent. The petitioner made several representations to the 1st respondents to set aside the suspension order and to reinstate him in service. But, there is no response from the respondents. Hence, he filed this instant writ petition before this Court.

4. The learned counsel appearing for the petitioner submitted that, no enquiry is conducted and the mercy appeal filed by the petitioner is also still pending before the first respondent and no final order has been passed. Hence, the respondents may be directed to consider the representations of the petitioner and to pass appropriate orders.

5. The learned Special Government Pleader takes notice for the 1st respondent submitted that, the representation of the petitioner will be considered by the authorities concerned and appropriate orders will be passed, in accordance with law.

6. At this juncture, it is pertinent to note that the Hon'ble Full Bench of this Court, has passed order in the case of P.Kannan Vs The Commissioner for Municipal Administration and Others (W.P.Nos.2165 of 2015 and 21628 of 2018 dated 15.03.2022), wherein, it is held as follows:

(i) The judgment of the Apex Court in the case of Ajay Kumar Choudhary, supra, does not lay down absolute proposition of law that an order of suspension cannot be continued beyond the period of three months if the memorandum of charges/charge-sheet has not been served within three months, or if memorandum of charges/charge-sheet is served without reasoned order of extension.

(ii) The judgment in R.Balaji, supra, has no reference to the earlier judgments of co-equal strength and is thereby rendered per incuriam.

(iii) The issue of challenge to the order of suspension should be analyzed on the facts of each case, considering the gravity of the charges and the rules applicable.



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(iv) Revocation of suspension with a direction to the employer to post the delinquent in a non-sensitive post cannot be endorsed or directed as a matter of course. It has to be based on the facts of each case and after noticing the reason for the delay in serving the memorandum of charges/charge-sheet.

7. Therefore, in the light of the above decision of the Hon'ble Full Bench of this Court, this Court directs the first respondent to consider the petitioner's representation dated 17.02.2022 and to pass orders on its own merits in accordance with law, as expeditiously as possible, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition stands disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

mst
To

- 1.The Joint Registrar of Co-operative Societies,
Tiruvannamalai, Tiruvannamalai District.
- 2.The President,
Desur Primary Agricultural Co-operative Credit Society,
Desur, Vandavasi Taluk,
Tiruvannamalai District.

+1cc to Mr.T.Sundaravadanam, Advocate Sr.22297
+1cc to the Government Pleader Sr.22780

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srg 21/04/2022