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W.P.No.32511 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.32511 of 2019

J.Habeeb Rahman

...Petitioner

Vs.

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

2.The Deputy Registrar of Co-operative Societies,
Mayiladuthurai Circle, Mayiladuthurai,
Nagapattinam District.

3.The President,
ZB-61, Agani Primary Agricultural Co-operative
Society,
Koilpathu Post,
Sirkazhi Taluk,
Nagapattinam District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings Na.Ka.No.999/2019. Tho.Vae.Sa dated 22.04.2019 and consequential order passed by the third respondent in his proceedings No. Nil, dated 02.11.2019 and to quash the same and consequently directing the respondents to reinstate the petitioner into service along with backwages, attendant benefits and other monetary benefits to the petitioner.



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For Petitioner : Mr.C.Prakasam
For Respondent : Mr.T.Chezhiyan, AGP
Nos.1 & 2
For Respondent-3 : Mr.R.Balaramesh

ORDER

Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader appearing on behalf of the respondents 1 & 2 and Mr.R.Balaramesh, learned counsel for the third respondent.

2. The petitioner herein had worked as Clerk in the third respondent Society from the year 1992 onwards. From 22.02.2004 onwards, the petitioner was on unauthorized absence, pursuant to which the third respondent Society has called for an explanation through letter dated 29.09.2004 which was received by him. But no explanation was sent by the petitioner. Thereafter, another notice was sent by the third respondent Society on 09.12.2004 by registered post, calling for his explanation, which was also received by the petitioner himself on 13.12.2004 but no reply was given. Again when the third respondent has sent another notice dated 02.01.2007 to the petitioner calling for his explanation, the same was returned with an endorsement "Left India return to sender". In this background, a



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domestic enquiry was conducted and notice sent to the petitioner in this regard was also returned with the same endorsement that he has left the country. Pursuant to the ex-parte enquiry, a report came to be filed, based on which, the Special Officer had terminated the services of the petitioner on 19.05.2007. No revision against the order of termination under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 was filed by the petitioner. After 12 years, he has come forward with the present Writ Petition.

3. The learned counsel for the petitioner submitted that the petitioner herein had met with an accident owing to which, he was seriously injured and for taking treatment, he went abroad. After he recovered from the health issues, he filed the present Writ Petition.

4. Per contra, the learned counsel for the third respondent submitted that ample opportunities were extended to the petitioner to give his explanation when he was in the country and there was no response from the petitioner. Even otherwise, the petitioner has challenged the order of termination after 12 years, which is an inordinate delay and therefore, the Writ Petition is liable to be dismissed.



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5. The medical ailment is the only ground raised by the petitioner in challenging the termination order in the present Writ Petition. It is seen that no records have been produced before this Court to substantiate that the petitioner has met with an accident or he was under treatment in a foreign country or that he had recovered only after 12 years. Thus, the delay of 12 years can be termed to be 'inordinate' in nature in challenging the order of termination.

6. In the absence of any reasonable explanations, this Court is of the view that the Writ Petition itself deserves to be rejected on the ground of delay and laches.

7. For all the foregoing reasons, there are no merits in the present Writ Petition. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

09.12.2022

Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order

DP



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To

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M.S.RAMESH,J.

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