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W.P.No.30078 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30078 of 2018
and
W.M.P.No.35093 of 2018

R.Rameshkumar

...Petitioner

Vs.

1.The Board of Tamilnadu Co-operative Union,
NV Natarajan Maligai, 170 E V R Periyar Salai,
Kilpauk, Chennai – 600 010.

2.The Additional Registrar,
Chennai Regional Co-operative Societies,
O/o.The Additional Registrar,
No.91, St.Marys Road,
TANFED Buildings,
Chennai – 600 018.

3.The Additional Registrar/Managing Director,
Tamilnadu Cooperative Union,
NVN Maligai, 170 EVR Periyar Salai,
Kilpauk,
Chennai – 600 010.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent herein in his proceedings



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Na.Ka.No.2689/2012/A1 dated 07.06.2016 and confirmed by the second respondent herein in his proceedings Review No.9/2016 Na.Ka.4754/2016/E2 dated 27.06.2018 and quash the same as illegal and without jurisdiction and direct the respondents herein to reinstate the petitioner into service with all consequential service and monetary benefits, in the light of the reinstatement of Mrs.U.R.Dhavamani a co- delinquent of the petitioner dated 25.10.2017.

For Petitioner	: Mr.G.Bala For M/s.G.Bala and Daisy
For R1 & R2	: Mr.R.P.Murugan Raja Government Advocate
For R3	: Mr.V.Kamaraj For Mr.L.P.Shanmugasundaram

ORDER

The order passed by the Revisional Authority under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred to as 'The Act'] is under challenge in the present writ petition.

2. The Revisional Authority confirmed the order of removal from service issued on the writ petitioner in the departmental disciplinary proceedings. The petitioner was an employee in the Tamil Nadu Co-operative Union and departmental disciplinary proceedings were initiated



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based on certain allegations, which all are grave in nature and the proceedings ended with the order of punishment of dismissal from service.

3. The main ground raised by the petitioner is that the Additional Registrar, who decided the Revision Petition under Section 153 of the Act was the authority, who issued the original punishment order in his capacity as the Managing Director of the Co-operative Union.

4. The original punishment of dismissal from service was issued by the officer in the rank of Additional Registrar. In the present case, the Revision Petition filed under Section 153 of the Act was also decided by the officer in the rank of Additional Registrar. Therefore, the learned counsel for the petitioner made a submission that the petitioner did not get a fair opportunity for adjudication under Section 153 of the Act.

5. In such circumstances, where the Disciplinary Authority and the Revisional Authority is in the same cadre, then the Revision under Section 153 of the Act is to be decided by the Registrar of Co-operative Societies himself. Registrar being the Statutory Authority under the provisions of the



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Act, the Additional Registrars are exercising the delegated powers and the original powers under the Act vest with the Registrar. That being the scheme of the Act, in the present case, the Registrar of Co-operative Societies ought to have considered the Revision Petition and pass an order.

6. In view of the fact that the same ranking authority passed the original order of punishment and the Revisional order, this Court is inclined to remand the matter back to the Registrar for adjudication and to pass final orders.

7. It is brought to the notice of this Court that in respect of the co-employee to the writ petitioner, the Board of the Tamil Nadu Co-operative Union has passed a Resolution, revoking the order of dismissal from service. When the Revision was decided by the Statutory authority under Section 153 of the Act, thereafter the Board cannot entertain an appeal, since the scheme of the Act provides that the original authority's decision may be challenged before the Appellate Authority and in the present case, the Appellate Authority is the Board of the Tamil Nadu Co-operative Union and thereafter, the aggrieved person can approach the Revisional Authority



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under Section 153 of the Act. Once, the Appellate remedy before the Board was not exhausted and the Revision Remedy under Section 153 of the Act was exhausted, thereafter, such an employee cannot go back to the lower authority and seek any relief in respect of the order of punishment.

8. In the case of the co-employee, the said employee had not preferred any Revision under Section 153 of the Act and therefore, this Court allowed the said petitioner to approach the Board and the Board considered his appeal. However, those cases are to be reviewed by the Registrar of Co-operative Societies and if it is found that any erroneous decisions are taken by the Board, such decisions are to be reviewed by the Registrar of Co-operative Societies by invoking the *suo motu* power or otherwise in consonance with the provisions of the Act through Government.

9. At the outset, the Registrar in the present case has to look into the files in entirety and take all appropriate actions in the manner known to law.

10. As far as the writ petitioner is concerned, the impugned order



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passed by the second respondent in his proceedings Review No.9/2016 Na.Ka.4754/2016/E2 dated 27.06.2018 is quashed and the matter is remanded back to the Registrar of Co-operative Societies for fresh consideration. The Registrar of Co-operative Societies shall adjudicate the issues afresh by affording opportunity to the writ petitioner and accordingly, take a final decision and pass orders as expeditiously as possible.

11. Accordingly, the writ petition stands allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2022

Index : Yes
Speaking order: Yes
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To

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Kilpauk, Chennai – 600 010.
2. The Additional Registrar,
Chennai Regional Co-operative Societies,
O/o. The Additional Registrar,
No.91, St. Marys Road,
TANFED Buildings,



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Chennai – 600 018.

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3. The Additional Registrar/Managing Director,
Tamilnadu Cooperative Union,
NVN Maligai, 170 EVR Periyar Salai,
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S.M.SUBRAMANIAM, J.

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