



W.P.(MD)No.12584 of 2011

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 16.12.2022**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.12584 of 2011**

**and**

**M.P(MD)No.1 of 2011**

R.Perumal

... Petitioner

**Vs.**

1. The Secretary to Government,  
Co-operative, Food and Consumers Protection  
Department,  
Chief Secretariat, Fort Saint George,  
Chennai – 600 009.
  2. The Joint Register of Agriculture Cooperative Societies,  
Virudhunagar Region,  
Virudhunagar,  
Virudhunagar District.
  3. The Special Officer,  
S.P.S.L.30, Srivilliputhur Agriculture Cooperative Society,  
Srivilliputhur,  
Virudhunagar District.
- .... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to



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the impugned order of the 1<sup>st</sup> respondent in G.O.(2D) No.90, dated 05.08.2010 as modified by G.O.(2D) No.26, dated 19.04.2011 issued by the 1<sup>st</sup> respondent, confirming the order, dated 16.08.2007 passed by the 3<sup>rd</sup> respondent and read with order, dated 29.05.2008 passed by the 2<sup>nd</sup> respondent in Na.Ka.No.9439/07 SaPa and quash the same and consequently directing the respondents to reinstate the petitioner in service with continuity of service with all consequential benefits.

|                |                                                          |
|----------------|----------------------------------------------------------|
| For Petitioner | : Mr.T.Antony Arul Raj                                   |
| For R-1 & R-2  | : Mr.S.R.A.Ramachandran<br>Additional Government Pleader |
| For R-3        | : M/s.D.Shanmugaraja Sethupathy                          |

### **ORDER**

This Writ Petition has been filed to quash the impugned order of the 1<sup>st</sup> respondent in G.O.(2D) No.90, dated 05.08.2010, as modified by G.O.(2D) No. 26, dated 19.04.2011 issued by the 1<sup>st</sup> respondent, confirming the order, dated 16.08.2007 passed by the 3<sup>rd</sup> respondent and read with order, dated 29.05.2008 passed by the 2<sup>nd</sup> respondent in Na.Ka.No.9439/07 SaPa and also sought for a consequential direction to the respondents to reinstate the petitioner in service with continuity of service with all consequential benefits.



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2. Heard Mr.T.Antony Arul Raj, learned counsel appearing for the petitioner and Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for respondent Nos.1 & 2 and M/s.D.Shanmugaraja Sethupathy, learned counsel appearing for the 3<sup>rd</sup> respondent. Perused the material documents available on record.

3. The petitioner has joined the 3<sup>rd</sup> respondent society in the year 1977, as Clerk and he became a Senior Clerk, in the year 1997. A charge memo, dated 11.02.2000 was issued, which contains six charges. The petitioner has submitted his explanation and thereafter, a domestic enquiry was conducted. By an order, dated 16.08.2007, the petitioner was removed from service. Against the said dismissal order, the petitioner has preferred a revision before the 2<sup>nd</sup> respondent and the same was dismissed, vide order, dated 29.05.2008. Then the petitioner has filed a review before the 1<sup>st</sup> respondent and the same was also dismissed on 31.07.2009. Aggrieved over the same, the petitioner had filed a writ petition in W.P(MD)No.4583 of 2010 before this Court and this Court set aside the punishment order, by order, dated 08.04.2010, directing the respondents to



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conduct fresh enquiry. Thereafter, the 1<sup>st</sup> respondent has passed G.O.(2D)No.90, dated 05.08.2010, dismissing the revision petition.

4. The contention of the petitioner is that the charges are vague and it is bald allegation. The charge Nos.5 & 6 only states that the petitioner was abetting the President of the society. The additional charge is also not specifically stating that the petitioner is involved in the said crime. Moreover, the petitioner was exonerated in the said criminal proceedings. Even though the petitioner's name was in the FIR, in the final report, the petitioner's name was deleted. Based on these grounds and on various other grounds, the petitioner is before this Court.

5. The 3<sup>rd</sup> respondent has filed counter stating that the charges against the petitioner are very serious in nature. In the criminal proceeding, the petitioner was acquitted on technical ground. In disciplinary proceeding after giving sufficient opportunity the petitioner was dismissed from service, the Appellate authority has passed an elaborate speaking order, after considering the petitioner's explanation. The petitioner has participated in the domestic enquiry fully. The allegation against the petitioner is that, he was assigned with duty,



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however, the petitioner without submitting the papers to the Secretary and the Board, who were the competent authorities to sanction the loan, but the petitioner had acted as instructed by the President. Therefore, the petitioner was imposed with the punishment of dismissal from service. As against the President of the Society, the society has initiated an action under surcharge proceeding and criminal case is filed and the same is pending. Therefore, the respondents pray to dismiss the writ petition.

6. The 1<sup>st</sup> respondent has also filed counter affidavit relied on the same pleas, as raised by the 3<sup>rd</sup> respondent.

7. The first ground that was raised by the petitioner is that the charges against the petitioner is vague and it is bald. On perusal of the charges, the charge Nos.1 to 4 are simply says that the petitioner has not served his duty properly. While granting loan, the petitioner has not processed, by following the By-laws of the Society. The petitioner has not taken 20% eligible criteria. Without following these conditions, the petitioner has granted loan. On perusal of the charge memo, this Court is of the considered opinion that there is no specific



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allegations raised by the respondents, in which loan, on what date, the petitioner has not followed the By-laws. As rightly pointed out by the petitioner the Charges Nos.1 to 4 are absolutely bald and vague.

8. The charge Nos.5 & 6, it specifically states that, one V.Sivaraman has misappropriated by impersonating as one M.Paulsamy S/o.Muthu Thevar. On perusal of these allegations along with the enquiry report, the President one Mr.Muruga Boopathy along with the said V.Sivaraman have misappropriated the society fund. There is no specific allegation against the petitioner that he has involved in the act of misappropriation of funds. In the criminal proceedings the petitioner's name was deleted in the final report. Therefore, this Court is of the considered opinion that the charge against the petitioner is baseless and without any evidence that the petitioner has misappropriated.

9. On considering the aforesaid facts coupled with the fact that the writ petitioner is aged about 60 years and attained superannuation, moreover the petitioner has rendered service for a period from 1997 to 2007, more than 20



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years, hence, this Court is inclined to modify the punishment as Compulsory Retirement. The petitioner has attained superannuation in the year 2015. The first round of litigation has ended in the year 2007. Therefore, this Court is inclined to fix the date, as the petitioner's service as from 1997 to 16.08.2007.

**10.** Accordingly, this Court is inclined to pass the following order:

(i). The punishment imposed on the petitioner is modified as Compulsory Retirement.

(ii). The service of the petitioner shall be taken for a period from the year 1997 to 16.08.2007 and for this period the petitioner is entitled monetary benefits as well as service benefits.

(iii). The respondents shall disburse the service benefits and other terminal benefits, within a period of 12 weeks, from the date of receipt of a copy of the order.



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**11.** With the above directions, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No  
Internet : Yes  
ksa

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To

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Co-operative, Food and Consumers Protection  
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2. The Joint Register of Agriculture Co-operative Societies,  
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**S.SRIMATHY, J**

**ksa**

**Order made in  
W.P.(MD)No.12584 of 2011**

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