



W.P(MD)No.1984 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1984 of 2020

and

W.M.P.(MD)No.1652 of 2020

Y-74, Mela Krishnanputhor Primary
Agricultural Cooperative Bank,
Rep. by its President,
R.Kumaralingesan.

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Nagercoil, Kanyakumari District.

2.S.Thavasilingam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the 1st respondent in Na.Ka.No.1688/2015/Sa.Pa dated 04.07.2019 and quash the same.

For Petitioner : Mr.T.Selvakumaran

For Respondents : Mr.R.Ragavendran,
Government Advocate for R1.
Mr.D.Shanmugaraja Sethupathi
For Mr.G.Rajaguru for R2.



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ORDER

Heard the learned counsel on either side.

2.The Management of the Cooperative Society is the writ petitioner. The Management challenges the order passed by the the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act in a revision petition filed by the employee/second respondent herein. The employee had questioned the order whereby he was removed from service. The first respondent by order dated 04.07.2019 set aside the same and directed reinstatement of the employee with all consequential benefits.

3.The only question that calls for consideration is whether in this writ petition, such an order has to be interfered with.

4.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He contended that the second respondent was accused of having stolen the properties belonging to the society and that therefore, this Court ought not to show any indulgence to the second respondent herein.



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5.I am not persuaded by the contention advanced by the learned counsel for the Management/writ petitioner herein. As rightly pointed out by the learned counsel for the employee, the removal order was passed without holding any enquiry. There is no dispute that S.Thavasilingam/second respondent herein is a confirmed employee in the writ petitioner society. Such an employee can be removed only after following the procedure set out in the relevant bye-laws. In this case, the order removing him from service has been straightaway passed. Of course, the order dated 18.03.2005 states that the employee was given notice and since no explanation was received from him, he was being removed from service. Removal from service cannot be done in such a summary fashion. Charge memo must be issued, explanation must be obtained, an enquiry officer must be appointed, the enquiry report, if adverse to the employee must be served on the employee, his further representation must be obtained, only thereafter an order of dismissal can be passed. In this case, the entire process has been short-circuited. Therefore, the first respondent rightly interfered in the matter.

6.Of course, in the order passed by the Management, there is reference to an allegation of theft. But the said allegation was subject matter of criminal prosecution and the petitioner also obtained acquittal vide judgment dated



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13.06.2006 in C.C.No.109 of 2004 on the file of the learned Judicial Magistrate
No.III, Nagercoil.

7.In view of the sheer lapse of time, I am not inclined to remand the matter and the issue deserves to be given quietus here and now.

8.While setting aside the order of removal and directing his reinstatement, the first respondent herein has not passed any order for backwages. Therefore, no further interference is called for. The Management is expected to comply with the order passed by the statutory authority by reinstating the petitioner as early as possible. Since the order of removal has been set aside, the employee/second respondent herein is entitled to continuity of service.

9.The writ petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To:

The Joint Registrar of Cooperative Societies,
Nagercoil,
Kanyakumari District.



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G.R.SWAMINATHAN, J.

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