



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.01.2022
CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**
W.P.(MD)No.9214 of 2014

C.Saraswathy

... Petitioner

vs.

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

2.The Special Officer/Manager,
South Madras Electric Corporation
Employees Cooperative Stores Limited,
R.689, Trichy.

... Respondents

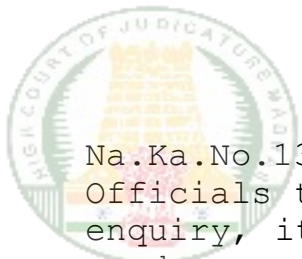
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the second respondent, dated 27.02.2012 and the consequential order passed by the first respondent in the revision preferred by the petitioner in Na.Ka.No.2073/2012 Sa.Pa, dated 26.02.2013 and to quash the same as illegal and consequently to direct the respondents to reinstate the petitioner in service with backwages.

For Petitioner	: Mr.S.Sarvagan Prabhu
For R1	: M/s.D.Farjana Ghoushia Special Government Pleader
For R2	: Mr.G.Karthick for Mr.T.Lajapathi Roy

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent, dated 27.02.2012 and the consequential order passed by the first respondent in the revision preferred by the petitioner in Na.Ka.No.2073/2012 Sa.Pa, dated 26.02.2013 and to consequently direct the respondents to reinstate the petitioner in service with backwages.

2.The petitioner was an employee under the second respondent Society and she was appointed on 01.04.1998 as Saleswoman as per the order of the Selection Board. She has served as Saleswoman for the past ten years in more than 13 branches. When she was working as a Saleswoman in Sangiliandapuram Branch, the Special Officer issued a show cause notice, dated 18.10.2011, alleging that the petitioner has supplied essential commodity to 33 fake cards from August 2006 to 20.07.2007. In the charge, it has been stated that based on the complaint, the Joint Registrar, Trichirapalli, vide order,



Na.Ka.No.1342/2007 Po.Vi.Thi, dated 14.07.2007, directed the Revenue Officials to enquire the allegations about the family cards. In the enquiry, it was found that the family cards were false and the said cards were removed from the supply list by the Revenue authorities. The petitioner has supplied essential commodities to the tune of Rs.24,946.95/- (Rupees Twenty Four Thousand Nine Hundred and Forty Six and Ninety Five Paise only).

3.The respondents framed two charges for supplying essential commodities to 33 family cards and caused loss to the Society to the tune of Rs.24,946.95/- (Rupees Twenty Four Thousand Nine Hundred and Forty Six and Ninety Five Paise only). Secondly, for creating a bad name for the Society. The petitioner submitted an explanation on 02.11.2011. Since the respondents were not satisfied with the explanation, they appointed an Enquiry Officer on 03.11.2011. The petitioner's specific contention is that she has assumed Office at Sangiliandapuram Branch on 28.07.2006. But, the 33 ration cards were issued in the year 2004 itself. After the stoppage order, dated 23.05.2007, the essential commodities were not supplied and the Enquiry Officer held the charges were proved, vide enquiry report, dated 12.01.2012. On 20.01.2012 and 18.02.2012, the respondents issued a second show cause notice for imposing major punishment. The petitioner had submitted her reply earlier, on 02.11.2011. Without accepting the explanation, the respondents dismissed the petitioner from service on 27.02.2012. The petitioner preferred a Revision Petition and the Revision Petition was dismissed, vide order, dated 26.02.2013. Aggrieved over the same, the present writ petition is filed, challenging both the dismissal order and revision petition order and consequently prayed to reinstate the petitioner in service with backwages.

4.The respondents have filed a counter affidavit stating that the incident occurred in the year 2006-2007 and after enquiry, a stop supply order was issued to the petitioner. But, the petitioner has supplied essential commodities during the period from 23.05.2007 to 20.07.2007. The respondents have denied the contention of the petitioner that she has been punished for the period from 2006 to 2007. In spite of stoppage of supply order, the petitioner has distributed the essential commodities and created loss to the Store.

5.Heard Mr.S.Sarvagan Prabhu, learned Counsel appearing for the petitioner, M/s.D.Farjana Ghoushia, learned Special Government Pleader appearing for the first respondent and Mr.G.Karthick, learned Counsel appearing for the second respondent.

6.The first contention of the petitioner is that the incident has occurred in the year 2006-2007 and the charge memo was issued after a lapse of five years, i.e., on 18.10.2011 and the charge memo itself is a belated charge memo. This Court is of the considered



7. The second contention raised by the petitioner is that the false cards were not issued by the petitioner. The petitioner has joined the said Shop from 28.07.2006 but, the cards were issued in the year 2004. It was admitted by all the parties that after thorough enquiry only, it has been found that the 33 cards were false cards. But, a specific stand was taken by the petitioner by relying on the Right to Information reply, that the 24 cards were alive, for four cards stoppage of supply order is there and one card belong to some other fair shop, for three cards there is no seven digit number and the card is wrong. In spite of the information that 4 cards were false cards, the respondents have not taken any action to cancel the said cards but, this contention was refused by the respondents stating that immediately all the cards were removed and cancelled. Be that as it may, now, the contention of the respondents is that all the false cards were cancelled.

8. Neither the petitioner nor the respondents have stated, rather clarified the loss for the period from 23.05.2007 to 31.07.2007. Admittedly, the loss is not Rs.24,946.95/- (Rupees Twenty Four Thousand Nine Hundred and Forty Six and Ninety Five Paise only), because in the revision order, the revision authority reduced the period of delinquency from 23.05.2007 to 31.07.2007. Since, the amount is not quantified, this Court is of the considered opinion that the amount would have been reduced considerably and the period is also only two months. Moreover as stated supra the period is only for two months i.e. 23.05.2007 to 31.07.2007, as per the Right to Information reply, the 24 cards were alive, for four cards stoppage of supply order is there and one card belong to some other fair price shop, for three cards there is no seven digit number and the card is wrong, all the false cards were cancelled on a later point of time.

9. Taking all these into consideration, this Court is of the considered opinion that the punishment is disproportionate. Hence, the punishment of dismissal from service is modified as stoppage of increment for a period of one year without cumulative effect. The first respondent is directed to reinstate the petitioner immediately and grant continuity of service. The petitioner is not entitled to any backwages under "no work no pay" principle.

10. Hence, the Writ Petition is allowed on the above terms. No costs.

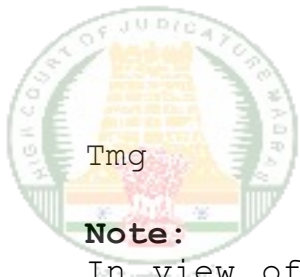
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To
The Joint Registrar of Co-operative Societies,
Trichirapalli Region,
Trichirapalli.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-284[F] dated
05/01/2022)

W.P. (MD)No.9214 of 2014
03.01.2022

NSN(CO)
KB(08.02.2022) 4P 3C