



WEB COPY

W.P.(MD)No.13760 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.03.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.13760 of 2016

and

W.M.P. (MD)No.10265 of 2016

N.Veeramani

... Petitioner

vs

1. The Joint Registrar of Co-operative Societies/
Revisional Authority,
Karur Region, Karur.

2. The president,
M.M.100, Thennalai Primary Agricultural
Co-operative Credit Society,
Thennilai, Karur District.

... 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 pertaining to the order dated 18.10.2014 passed by the second respondent and confirmed by the first respondent in Na.Ka.106/2015 Sa.Pa (Revision Petition No.1/2015 Sa.Pa) dated 22.04.2016 and quash the same and consequently, direct the respondents to reinstate the petitioner with all monetary benefits and continuity of service.

For Petitioner : Mr.P.R.Prithiviraj

For Respondents : Mr.P.Thambidurai for R1
Government Advocate (Civil side)

No appearance for R2

O R D E R

The petitioner has challenged the order passed by the second respondent vide order, dated 18.10.2014 and confirmed by the first respondent, dated 22.04.2016 and consequently, direct the respondents to reinstate the petitioner with all monetary and service benefits.

2. The contention of the petitioner is that he had worked as Salesman for both Thoppampatti and Karaipalayam from 01.02.2014. On 11.06.2014, a Charge Memo was issued on six counts and the Charge Memo states that on 05.06.2014, 07.06.2014, 09.06.2014 and



10.06.2014, the petitioner availed casual leave without prior intimation. It was further alleged that he had not remitted the sales proceeds amount pertaining to Karaipalayam Shop for the sales on 04.06.2014 and on 08.06.2014 for Thoppampatti Shop. An Enquiry Officer was appointed and the enquiry was conducted without giving proper notice and conducted an ex-parte enquiry and held that the charges were proved. Based on the enquiry report, the petitioner was dismissed from service on 18.10.2014. Aggrieved over the same, the petitioner has preferred a revision under Section 153 of Tamil Nadu Co-operative Societies Act 1983. In the Revision Petition, the authority has confirmed the punishment. Aggrieved over the same, the present writ petition is filed.

3. The first respondents has filed a counter affidavit stating that the enquiry notice was sent to the petitioner and the enquiry dated 08.08.2014 was adjourned due to the request of the petitioner. The next enquiry was conducted on 20.08.2014, but the petitioner did not appear for the enquiry. The second show cause notice was granted to the petitioner along with the enquiry report to submit his explanation. The petitioner has submitted two letters, dated 17.09.2014 and 25.09.2014 addressed to the second respondent in which he has assured to remit the misappropriated amount of Rs.9788.25/- to the society and has requested to reinstate by forgiving his mistakes and sought to pardon him and has also paid the amount.

4. The second respondent has filed a separate counter affidavit and it is more or less same as filed by the first respondent, rather it can be stated as cut copy paste counter affidavit.

5. Heard Mr.P.R.Prithiviraj, learned Counsel appearing for the petitioner, Mr.P.Thambidurai, learned Government Advocate appearing for the first respondent and there is no appearance for the second respondent.

6. The contention of the petitioner is that he was not absented on the said four days, but he was not allowed to function by the second respondent. The next contention of the petitioner is that the second respondent has received the sales proceeds but had failed to make the entry in the books. The second respondent in order to appoint one of his relative has targeted the petitioner and showing some false reasons has initiated proceedings and finally dismissed from service.

7. On perusing the records it is seen that the enquiry was conducted by issuing a notice, but the petitioner did not appear. The respondents ought to have given second opportunity to the petitioner to appear before the Enquiry Officer. But the second respondent has not granted the second opportunity to the petitioner



and the enquiry report admittedly is an ex-parte report. Therefore, this Court is of the considered opinion that there is a clear violation of principles of natural justice. Therefore, the impugned order is set aside and the case is remitted back to the first respondent to conduct de novo enquiry. The 1st respondent is directed to conduct the enquiry and strictly to adhere to the principles of natural justice and then pass a speaking order and the said enquiry shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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

1.The Joint Registrar of Co-operative Societies/
Revisional Authority,
Karur Region, Karur.

2.The president,
M.M.100, Thennalai Primary Agricultural
Co-operative Credit Society,
Thennilai, Karur District.

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-12073[F] dated 15/03/2022)

+1 CC to M/s.SPL GP (SR-12459[F] dated 16/03/2022)

W.P.(MD)No.13760 of 2016
14.03.2022

MGJ(31.03.2022) 3P 5C