



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.4840 of 2016

P.Valarmathi

... Petitioner

Vs.

1.The Joint Registrar / President,
The Selection Committee of Salesman/Packer of
Madurai Zone Public Distribution Scheme,
Madurai.

2.The Special Officer,
M.M.3123 Madurai District,
Central Co-operative Bank Employees,
Co-operative Store,
Madurai.

3.The Joint Registrar of Co-operative Societies,
Madurai Zone,
Madurai.

4.The President,
M.M.3123, Madurai District,
Central Co-operative Bank Employees,
Co-operative Store,
Madurai.

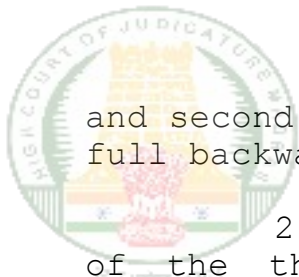
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.4398/2012 Sapa (See.Manu.No.10/2014) dated 14.11.2015 by confirming the order passed by the second respondent dated 30.04.2012 and quash the same as illegal, against the provisions and Rules of Tamil Nadu Co-operative Societies Registration Act and consequently direct the first and second respondents to reinstate the petitioner into service with full backwages.

For Petitioner	:	Mr.P.Krishnasamy
For R-1 to R-3	:	Mrs.D.Farjana Ghoushia, Special Government Pleader.
For R-4	:	Mr.D.Shanmugaraja Sethupathi

ORDER

This Writ Petition has been filed challenging the order of the first respondent dated 14.11.2015 by confirming the order of the second respondent dated 30.04.2012 and consequently direct the first



and second respondents to reinstate the petitioner into service with full backwages.

2. The petitioner was appointed as Salesman in the Store of the third respondent vide proceedings dated 09.09.2010. On 05.05.2011, an inspection was carried out by C.I.D Branch Inspector alleging that there was a shortage of food articles in the Store. Thereafter, a charge memo was issued to the petitioner and the petitioner has submitted his explanation. After the domestic enquiry, the petitioner was terminated from service on 30.04.2012. The petitioner preferred Revision Petition to the second respondent. After considering the evidence on records, the Revision Petition was dismissed confirming the punishment of the petitioner. In the meanwhile, the criminal proceedings were initiated against the petitioner and other co-accused. The criminal case in C.C.No.42 of 2011 ended in acquittal of the petitioner. The learned counsel for the petitioner circulated the order passed in the criminal case.

3. Heard Mr.P.Krishnasamy, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for respondents 1 to 3 and Mr.D.Shanmugaraja Sethupathi for the fourth respondent. The post of Special Officer is abolished.

4. The allegations against the petitioner is that there was a deficit stock to the tune of 13 kg of sugar, 17 kg of wheat, 4 kg of cereals, 2 kg of Aatta and there is excess stock of 195kg of boiled rice and the petitioner has taken the stock for her personal gain. On the particular date, the petitioner has taken about 50kg of rice in several bags. Considering all the materials on records and based on the enquiry report, the respondents have come to the conclusion that the charges are proved and finally the petitioner was terminated from service.

5. In the criminal case, it has been held that the charges are not proved and the Magistrate has held that there is no possibility of alleged action by the accused at all. Even though strict evidence is necessary for proving the criminal case, in domestic enquiry it is enough if there is preponderance of probability, this Court is not able to close its eyes completely on the findings of the Criminal Court. The petitioner is now 50 years old as on today. She is having ten more years for service and she has put in 1 ½ years of service. Moreover, she was working as temporary employee within 1 ½ years that too in the post of temporary in nature, there is no possibility of the allegation as stated in the charge memo and the petitioner would not commit such grave mistake. Based on this preponderance of probability, this Court is inclined to grant relief. The third respondent is directed to take the petitioner into service as fresh entrant and post in any one of the vacancies that is available within its jurisdiction.



6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (Crl side)

// True Copy //

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/ /2022

Sub Assistant Registrar(CS)

Nsr

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

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Co-operative Store, Madurai.

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Madurai Zone, Madurai.

4.The President,
M.M.3123, Madurai District,
Central Co-operative Bank Employees,
Co-operative Store, Madurai.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-11382[F] dated 11/03/2022)

+1 CC to M/s.P.KRISHNASAMY, Advocate (SR-11481[F] dated 11/03/2022)

+1 CC to M/s.SPL GP (SR-11494[F] dated 11/03/2022)

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