



W.P.(MD)No.12733 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12733 of 2017

and

W.M.P(MD)No.9846 of 2017

S.Swaminathan

... Petitioner

Vs.

1. The Regional Joint Registrar of
Co-operative societies,
Thiruvarur.

2. The Regional Deputy Registrar (Housing),
Thomas David Nagar,
Old Housing Unit, Thanjavur.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, thereby call for the records relating to the proceedings of the 1st respondent in Re.3026/2017/E.M(1) and Re.3026/2017/E.M.(2), dated 31.05.2017 and quash the same as illegal and arbitrary and consequently direct the 1st respondent to allow the petitioner to retire from service and also pay all the monetary benefits due to him at once .



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For Petitioner : M/s.P.Ganapathi Subramanian
For Respondents : Mr. A.Sivanu Pandian
Government Advocate

ORDER

This Writ Petition has been filed to quash the proceedings of the 1st respondent in Re.3026/2017/E.M(1) & Re.3026/2017/E.M.(2), dated 31.05.2017 and also sought for a consequential direction to the 1st respondent to allow the petitioner to retire from service and also pay all the monetary benefits due.

2. Heard M/s.P.Ganapathi Subramanian, learned counsel appearing for the petitioner and Mr.A.Sivanu Pandian, learned Government Advocate appearing for the respondents. Perused the material documents available on record.

3. The petitioner has joined in the Society service as Junior Inspector of Co-operative Societies in the year 1985 and subsequently, promoted as Senior Inspector and finally Co-operative Sub-Registrar in the year 2010. The petitioner was due to retire on 31.05.2017. On the date of retirement, the petitioner has



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received the order of suspension with consequential order of retaining the petitioner in service as on 31.05.2017. The 1st respondent has passed the impugned order for the alleged misappropriation of funds relating to Z-127, Kumbakonam Urban Co-operative Housing Building Society Limited. The petitioner has served as Special Officer in the said society from 18.02.2011 to 08.05.2013 and was holding the charge, apart from holding regular charge of Co-operative Sub-Registrar (Housing), Thiruvarur. At the relevant point of time, the petitioner was holding additional charge for 11 societies, including the above said Kumbakonam Urban Co-operative House Building Society.

4. The allegation against the petitioner is only lack of supervision.

The contention of the petitioner is that, he has not acted against the financial interest of the society at any point of time. A charge memo was also issued on the same day, framing charge of misappropriation of funds to the tune of Rs.14,15,595/-. The further contention of the petitioner is that the alleged sale deeds were executed by the Secretary and the Manager of the society. The Secretary and Manger of the society were allowed to retire from service and disciplinary proceedings was initiated against the petitioner alone. The petitioner



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has not involved directly in the execution of the alleged sale deeds. There is only lack of supervision. Even, the respondents have also alleged only lack of supervision.

5. It is an admitted fact that the respondents have initiated the surcharge proceeding and issued surcharge notice. The surcharge notice was issued after filing of the instant writ petition. The society has power to initiate disciplinary proceedings as well as surcharge proceedings. Whenever the allegation of lack of supervision is initiated, then the society is empowered to take surcharge proceeding alone. The respondents have rightly initiated surcharge proceeding and the same is pending. In such circumstances, initiation of disciplinary proceedings is an unwarranted one. More so, when the Manager and Secretary who are involved in execution of sale deeds were let out scot free.

6. By taking note of the facts and also considering the rival submissions, this Court is inclined to interfere in the suspension order passed by the respondents. The respondents are directed to revoke the suspension order and allow the petitioner to retire from service and consequentially, the respondents are



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directed to pay monetary benefits and the terminal benefits which is applicable to the petitioner. However, the respondents are at liberty to proceed with the surcharge proceeding, in accordance with law.

7. With these directions, this Writ Petition is disposed of. No Costs.

Consequently, connected miscellaneous petition is closed.

Index : Yes / No

14.12.2022

Internet : Yes

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To

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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.12733 of 2017**

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