



W.P.No.1023 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.1023 of 2019
and
W.M.P.Nos.1143 & 1144 of 2019

S.Kandasamy

...Petitioner

-Vs-

1.The Joint Registrar/Managing Director,
Dharmapuri District Central
Co-operative Bank,
Dharmapuri.

2.S.1063, Puliampatti Primary Agricultural
Co-operative Thrift Society Ltd.,
Rep. by its President,
Vadamangalam,
Pochampalli,
Krishnagiri - 635 123.

3.The Chairman,
Common Cadre Authority/
Joint Registrar of Cooperative Society,
Krishnagiri Region,
Krishnagiri District Collectorate Campus,
Krishnagiri District.

*(R3 impleaded vide order dated 20.01.2023 made
in WMP.No.205/2023 in WP.No.1023/2019)*

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 21.02.2018 passed by the 2nd respondent, quash the same and consequently forbear the respondents from any manner interfering with the petitioner's right to function as Secretary in the 2nd respondent Bank.

For Petitioner : Mr.G.Ethirajulu
For R1 & R3 : Mr.T.M.Rajangam,
Government Advocate
For R2 : Mr.M.S.Palaniswamy

ORDER

Heard Mr.G.Ethirajulu, learned counsel for the petitioner, Mr.T.M.Rajangam, learned Government Advocate for the first and third respondents and Mr.M.S.Palaniswamy, learned counsel for the second respondent.

2. The petitioner herein, while serving as a Secretary in the second respondent Society, was placed under suspension by the second respondent, through an order dated 21.02.2018, which is impugned in the present Writ Petition. The petitioner's representations dated 22.07.2018 and 03.12.2018,



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seeking for revocation of his suspension, were not considered by the second respondent and hence, the present Writ Petition has been filed.

3. The guidelines governing a Government employee to be kept under prolonged suspension, has been dealt with by the Hon'ble Supreme Court in the case of ***Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291*** at page 303, in the following manner:-

“21.We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is not served on the delinquent officer/employee; if the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his



defence. We think this will adequately safeguard the universally recognised principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognise that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.”

4. The petitioner herein is aggrieved against his prolonged suspension for more than 4 years. There is nothing on record to show that the second respondent had passed a reasoned order for extension of the suspension period of the petitioner beyond 3 months, as contemplated in *Ajay Kumar Choudary's case (supra)*. Accordingly, the suspension order itself cannot be sustained.



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5. In the light of the above observations, the impugned suspension order dated 21.02.2018 is revoked. Consequently, there shall be a direction to the second respondent herein to reinstate the petitioner back into service, together with back wages from 21.02.2018 onwards, within a period of one week from the date of receipt of a copy of this order.

6. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

27.01.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

hvk



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To



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M.S.RAMESH,J.

hvk

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- 2.The President,
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