



WEB COPY



WP.No.32069/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.32069/2016

& WMP.Nos.3923 to 3925/2018 & 21581/2018 & 27815/2016

Mr.S.Balasubramanian

... Petitioner

Versus

- 1.The Principal Secretary to Government
Cooperation Food and Consumer
Protection (CP1) Department, Secretariat
Chennai-600 009.
- 2.The Additional Registrar of
Cooperative Societies, Chennai Region,
St.Maries Road, Chennai-600 018.
- 3.The Special Officer
Chennai Central Co-operative Bank No.215
Prakasam Salai Chennai-600 108.
- 4.The Deputy Registrar of
Co-operative Societies (Credit), Kuralagam
Chennai-600 108.

... Respondents



WP.No.32069/2016

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus Calling for the records in proceedings G.O.No.175 Co-operation Food and Consumer Protection (CP1) Department dated 16.12.2010 passed by the first respondent herein and to quash the same and direct the third respondent to grant the two years incremental and seniority benefit.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.S.Ravikumar, Spl.GP

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records of the proceedings in G.O.Ms.No.175, Cooperation, Food and Consumer Protection [CP1] Department, dated 16.12.2010 passed by the 1st respondent, Principal Secretary to Government, Cooperation, Food and Consumer Protection Department, Chennai, and to quash the same. The petitioner seeks that the punishment imposed, namely, cut off in increment for two years and affecting seniority should be set aside by this Court.



WP.No.32069/2016

WEB COPY

(2) The petitioner herein was designated as Senior Assistant and had subsequently been promoted as Assistant Manager in Chennai Central Cooperative Bank and was working as such on 25.01.2001. He was suspended from service on 25.01.2007 under Proceedings No.2/2006/A1 issued by the Special Officer, Chennai Central Cooperative Bank, 3rd respondent herein. Charges were framed. Disciplinary action was initiated. There was also a criminal case registered against the petitioner and the Final Report filed therein was taken cognizance as CC.No.4263/2009 and trial was undertaken by the learned II Metropolitan Magistrate at Egmore in Chennai. The petitioner was the first accused. Cognizance was taken for commission of offences under Sections 409, 477A and 120[b] read with 109 of IPC. The disciplinary proceedings against the petitioner proceeded parallelly and finally, by the order now impugned in G.O.Ms.No.175, dated 16.12.2010, the punishment of cut off of increments with cumulative effect excluding leave, was imposed and approved by the 1st respondent by passing of the Government Order.



WP.No.32069/2016

WEB COPY

Subsequently, the judgment in the criminal case was pronounced on 18.06.2015 whereby, the petitioner was acquitted of all charges.

- (3) Learned counsel for the petitioner states that in view of such acquittal, punishment should be revisited by the respondents herein. In view of that particular line of the representation made, though it is the prerogative of the respondents to impose punishment in the disciplinary proceedings irrespective of the nature of judgment passed in a criminal case, still, acquittal in the criminal case could have a bearing on the punishment to be imposed by the Disciplinary Authority. The Disciplinary Authority may consider it or may not consider it. It is exclusively the privilege of the Disciplinary Authority. But, it would only be appropriate that this fact of acquittal is brought to the knowledge of the Disciplinary Authority and the Disciplinary Authority is once again called upon to re-examine the nature of punishment imposed.
- (4) The petitioner herein, therefore, may give a fresh representation to the 1st respondent drawing the attention to the acquittal in the criminal case / CC.No.4263/2009 by the judgment dated 18.06.2015



WP.No.32069/2016

WEB COPY

pronounced by the learned II Metropolitan Magistrate, Egmore, and thereafter, the 1st respondent, on receipt of such representation, may, if the situation warrants, re-examine and re-visit the punishment imposed. It is reiterated that the prerogative of the 1st respondent to retain the same punishment or to revisit the said punishment, is always there with the 1st respondent. But, however, such procedure may be conducted after issuing notice to the petitioner and giving an opportunity to the petitioner herein. I have consciously not examined the facts of the case since a particular procedure which is now being insisted upon by this Court for the 1st respondent to follow.

- (5) The writ petition stands **disposed of**. Whenever the petitioner gives a representation, such representation should be addressed by the 1st respondent within a period of sixteen weeks from the date of receipt of a copy of such representation. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2023

AP
Internet : Yes



WP.No.32069/2016

To
WEB COPY

- 1.The Principal Secretary to Government
Cooperation Food and Consumer
Protection (CP1) Department, Secretariat
Chennai-600 009.
- 2.The Additional Registrar of
Cooperative Societies, Chennai Region,
St.Maries Road, Chennai-600 018.
- 3.The Special Officer
Chennai Central Co-operative Bank No.215
Prakasam Salai Chennai-600 108.
- 4.The Deputy Registrar of
Co-operative Societies (Credit), Kuralagam
Chennai-600 108.



WEB COPY



WP.No.32069/2016

C.V.KARTHIKEYAN, J.,

AP

WP.No.32069/2016

29.08.2023