



WEB COPY

W.P.No.5373 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.09.2023

Coram:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.5373 of 2017
and WMP No.5703 of 2017

S.285 Venkatachalapathy Primary Agricultural
Cooperative Credit Society Limited
rep. by its President M.Chandira
Manjalayur
Muthunaickenpatty Post,
Omalur Taluk, Salem District – 636 304.

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Salem Region, Salem.

2.P.Chandran

.... Respondents

Prayer: PETITION filed under Article 226 of the Constitution of India
praying for the issuance of Writ of Certiorari calling for the records relating
to the order of the 1st respondent dated 23.12.2016 in Na.Ka.No.6448/2016,
Sa.Pa. and quash the same.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.S.Ravikumar
Special Government Pleader – R1
Mr.R.Nalliappan - R2



ORDER

This Writ Petition has been filed in the nature of Certiorari seeking records of the first respondent, the Joint Registrar of Cooperative Societies, Salem dated 23.12.2016 in Na.Ka.No.6448/2016, Sa.Pa. and quash the same.

2. The petitioner is the S.285 Venkatachalapathy Primary Agricultural Cooperative Credit Society Limited. They are deeply aggrieved by the order of the first respondent the Joint Registrar of Cooperative Societies, Salem in a revision petition filed by the second respondent P.Chandran under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 (in short 'Act').

3. The brief facts are the second respondent was working as Assistant Secretary in the petitioner society. He was also directed to work as Secretary in charge from 31.08.2014. The second respondent did not attend the office on and from 25.03.2015, for which he had not given any leave letter, not submitted any medical records and also not produced any reason for his absence.

4. On 11.03.2016, after waiting for about nearly one year, the petitioner had issued a charge memo for his unauthorised absence. This was received by the second respondent but he did not submit his explanation nor did he join duty. Hence, domestic enquiry notice dated 22.04.2016 was sent to him. However, he refused to receive the same. Thereafter, the domestic enquiry was conducted on 30.04.2016. Documents filed by the petitioner were



marked during the enquiry. The second respondent did not appear during the enquiry. The domestic enquiry officer held that the charges had been established.

5. Thereafter, a second show cause notice dated 10.05.2016 was issued along with the domestic enquiry report dated 05.05.2016. It was indicated to show cause why the second respondent should not be terminated from service. The second respondent again refused to receive the said notice and the cover had been returned back to the society. Thereafter, vide order dated 29.06.2016, the second respondent was terminated from service by the petitioner. This was sent to the second respondent, who had received the same.

6. As against the said order of termination, the second respondent had filed a revision under Section 153 of the Act before the first respondent. It is stated that in the revision petition he had also enclosed medical certificates. However, the same had not been produced before the domestic enquiry officer nor marked during the course of enquiry. The revisional authority had also not remanded the matter back for fresh consideration of the said certificates to the enquiry officer to now re-consider the facts on the basis of the certificates produced.

7. The impugned order mainly placed reliance on the certificates



produced by the second respondent and had interfered with the imposition of punishment of termination from service and modified the same with stoppage of increment for a period of two years without cumulative effect excluding the period of absence of the second respondent. Deeply aggrieved by that particular order, the petitioner society has filed the present Writ Petition.

8. A perusal of the order shows that though there is a reliance placed on the medical certificates produced, the said certificates had not been examined properly, viz., whether they had been issued in a proper manner by the doctors, whether they are genuine and whether the medical ailments therein warranted absence of more than one year.

9. In the order, it is stated that the certificates have been forwarded to the President of the petitioner society, which fact is specifically denied in the affidavit filed in support of the Writ Petition. There is no reason as to why the punishment of cut off of increment for two years without cumulative effect was granted. There is also no reason as to why the long period of absence was condoned by the first respondent.

10. In view of the aforesaid reasons, the impugned order is set aside and the matter is remitted back to the first respondent for fresh consideration of the revision petition filed by the second respondent under Section 153 of the Act after issuing notice to the petitioner and the second respondent. It is



made clear that all the records should be examined and thereafter a considered order be passed in the said revision petition.

WEB COPY

11. It is stated by the learned counsel for the second respondent that the second respondent is due to retire shortly. Let every effort be taken by the first respondent to dispose of the revision petition within a period of sixteen (16) weeks from the date of receipt of a copy of this order after affording an opportunity of hearing to all concerned and after following due process of law. If any documents are produced, the evidentiary value of the same may be examined and the documents should be tested in a proper manner.

12. This Writ Petition is allowed. No costs. Connected Miscellaneous Petition is closed.

SI
Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No

05.09.2023

To

The Joint Registrar of Cooperative Societies,
Salem Region, Salem.



WEB COPY



W.P.No.5373 of 2017

C.V.KARTHIKEYAN,J.

S1

W.P.No.5373 of 2017
and WMP No.5703 of 2017

05.09.2023