



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.Nos.5985 and 6047 of 2017
and
W.M.P.No.6483 of 2017

P. Maharajan

.. Petitioner in W.P.No.5985 of 2017

The President

E-2583, Anguchettypalayam

Primary Agricultural Co-operative Credit Society Limited,

123, Salem Main Road, Anguchettypalayam Post,

Panruti Taluk, Cuddalore.

.. Petitioner in W.P.No.6047 of 2017

Vs.

1.The Joint Registrar of Co-operative Societies
Cuddalore.

2.The Deputy Registrar of Co-operative Societies
Dandapani Nagar, Semmandalam,
Cuddalore Taluk and District.

3. The President

E-2583, Anguchettypalayam

Primary Agricultural Co-operative Credit Society Limited,

123, Salem Main Road, Anguchettypalayam Post,

Panruti Taluk, Cuddalore.

.. Respondent in W.P.No.5985 of 2017



1. The Joint Registrar of Co-operative Societies,
Cuddalore Region,
Cuddalore.

2. P. Maharajan

.. Respondents in W.P.No.6047 of 2017

Prayer in W.P.No.5985 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 3rd respondent to implement the order passed by the 1st respondent on 04.01.2017 in Na.Ka.No.6160/2015 துவத.1, by reinstating the petitioner into service of the 3rd respondent society as permanent fertilizer salesman and additional appraiser of jewels.

Prayer in W.P.No.6047 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the order passed by the 1st respondent in Na.Ka.No.6160/2015 துவத.1 dated 04.01.2017 and to quash the same.

In W.P.No.5985 of 2017:

For Petitioner	.. Mr. S. Balasubramanian
For Respondents	.. Mr. S. Ravikumar, SGP

In W.P.No.6047 of 2017:

For Petitioner	.. Mr. S. Palaniswamy
For R1	.. Mr. S. Ravikumar, SPG
For R2	.. Mr. S. Balasubramanian

**COMMON ORDER**

WEB COPY

W.P.No.5985 of 2017 had been filed by P. Maharajan, working as permanent fertilizer saleman and additional appraiser of jewels in the 3rd respondent Society. He had filed the writ petition seeking implementation of an order passed by the 1st respondent, the Joint Registrar of Co-operative Societies, Cuddalore, whereby, on a revision petition filed under Section 153 of the Tamil Nadu Co-operatives Societies Act, 1983, the 1st respondent had interfered with an order of dismissal from service passed by the 3rd respondent and had imposed an alternate punishment to cut of increment for a period of three years with cumulative effect on the petitioner herein. The petitioner sought reinstatement of service and had abided by the said order of punishment namely, cut of increment with cumulative effect for a period of three years.

2.Questioning that reduction in punishment from dismissal of service, the 3rd respondent in W.P.No.5985 of 2017 had filed W.P.No.6047 of 2017. They sought revival of the order of dismissal passed as against the petitioner in W.P.No.5985 of 2017.



WEB COPY

3. Since it is evident that both the writ petitions surround the order of the 1st respondent, which was passed under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, a common order is passed in both the writ petitions, by terming the petitioner in W.P.No.5985 of 2017 as petitioner and retaining the cause title as stated in the writ petition.

4. The petitioner while working as a salesman of fertilizer and additional jewel appraiser under the 3rd respondent society, was also entrusted with sanctioning of agriculture loan. It was found that he had sanctioned agriculture loan to his own wife and daughter. It was also found that the loans had granted to those who do not participate in any agriculture activity at all. Records were created in that regard. The sanctioned loans were not repaid. But the Government, waived the loans. This resulted in the petitioner benefiting from such unlawful sanctioning of loans. In effect, the charges framed against the petitioner were on those lines.

5. An enquiry was conducted. The petitioner did not participate in the enquiry, but permitted it to proceed *ex-parte*. That conduct cannot be



condoned by this Court. The petitioner, as an employee of the society was aware of the charges, which has been framed and should have participated in the enquiry. At any rate, final orders were passed consequent to the enquiry on 12.08.2015, whereby, holding the charges had been proved, the 3rd respondent / President of the society passed an order of dismissal of the petitioner from service.

6.Questioning this particular order, the petitioner filed a revision under Section 153 of the Tamil Nadu Co-operatives Act, before the 1st respondent. Section 153 Sub-clause (2) of the Act, places an embargo on the revisional authority from passing any order prejudicial to any person unless the said person had been given an opportunity of making representations.

7.In the instant case, the learned counsel for the petitioner and the learned counsel for the 3rd respondent have not advanced any ground alleging procedural irregularity. Opportunity had been granted to all concerned to participate in the revision proceedings.



8.The 1st respondent in his order dated 04.01.2017 after extracting the facts of the case, had finally stated that though the charges had been established, the punishment of dismissal from service was disproportionate and had therefore thought that it would serve the ends of justice, if the petitioner was imposed with the punishment of cut of increment for a period of three years with cumulative effect. Though it has not been very specifically stated as to the date from which that order should come into effect, it can be read that it should come into effect from 12.08.2015, the date when the petitioner was originally imposed with the order of dismissal from service. The order of the revisional authority is not very happily worded. At any rate, there appears to application of mind by reducing the facts in the order. Reasons were not given as to why the order of dismissal should be reduced to one of cut of increment for a period of three years with cumulative effect.

9.In the other writ petition namely, W.P.No.6047 of 2017 which had been filed by the 3rd respondent society, it had been very specifically stated that the 1st respondent had passed a five line order allowing the revision and setting aside the considered order passed by the 3rd respondent. This, as a



fact is evident from a reading the order of the revisional authority. If the revisional authority, who had proposed to impose a punishment which was considerably less than dismissal from service, he should have put the society on notice before passing such order. The financial implications suffered by the society should also be taken into consideration. However, there appears to be a general consensus that the punishment imposed by the revisional authority could be retained by this Court. The grounds stated in the affidavit had not been reiterated during the course of arguments. At any rate, it is also stated that the petitioner had attained the age of superannuation.

10. In view of that particular fact, taking a step back and examining the punishment imposed would only be flagging a dead horse. Let the respondents put into effect the said order of the revisional authority, who had reduced the punishment to one of cut of increment for a period of three years with cumulative effect and apply it from 12.08.2015.



11. In view of this particular conclusion, which had been arrived at by this Court,

i). W.P.No.5985 of 2017 is partly allowed. The petitioner may be effected with the said punishment of cut of increment for a period of three years with cumulative effect from 12.08.2015 and necessary proceedings may be issued to the petitioner in accordance with the order of the revisional authority.

ii). W.P.No.6047 of 2017 is disposed of with a direction to implement the order of the revisional authority.

iii). The order of the revisional authority is not set aside, but it is confirmed and the date of its applicability is determined as 12.08.2015.

iv). No order as to costs.

v). Consequently, connected Writ Miscellaneous Petition is closed.

02.08.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
smv



To

WEB COPY

1. The Joint Registrar of Co-operative Societies
Cuddalore.
2. The Deputy Registrar of Co-operative Societies
Dandapani Nagar, Semmandalam,
Cuddalore Taluk and District.
3. The President
E-2583, Anguchettypalayam
Primary Agricultural Co-operative Credit Society Limited,
123, Salem Main Road, Anguchettypalayam Post,
Panruti Taluk, Cuddalore.



WEB COPY



10

C.V.KARTHIKEYAN,J.

smv

W.P.Nos.5985 and 6047 of 2017

02.08.2023