



W.A.(MD)No.1104 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 10.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.1104 of 2012

and

M.P(MD)No.1 of 2012, 1 of 2013 and

C.M.P(MD)No.8218 of 2016

S.Gunasekaran

... Appellant/ Petitioner

Vs.

- 1.The Secretary to Government,
Co-operative Food and Consumer Protection Dept.,
Fort St.George,
Chennai.
- 2.The Registrar of Co-operative Societies,
Chennai-10.
- 3.The Joint Registrar of Co-operative Societies,
Karur Region, Karur.
- 4.The Joint Registrar of Co-operative Societies,
Trichy.
- 5.The Deputy Registrar of Co-operative Societies,
Karur Region, Karur.



W.A.(MD)No.1104 of 2012

6.The Chairman,
Tamil Nadu Public Service Commission,
Chennai.

...Respondents/Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P(MD)No.9638 of 2011 dated 09.10.2012.

For Appellant : Mr.C.Mahadevan
For R1 to R5 : Mr.R.Ragaventran,
Government Advocate
For R6 : Mr.J.Anandkumar

JUDGMENT

(Judgment of the Court was made by ***R.SURESH KUMAR, J.***)

The appellant was an employee of the respondent Department, against whom the disciplinary proceeding was initiated and concluded, as the Enquiry Officer has filed a report stating that out of 4 charges framed against the appellant, charges 1 and 2 were not proved and 3 & 4 were proved.

2.Considering the same, the Disciplinary Authority viz., third respondent, Karur, by order dated 30.11.2003 passed a detailed order stating



W.A.(MD)No.1104 of 2012

that, three out of four charges framed against the appellant, had been proved, that means, charge Nos.1, 2 and 3 had been proved. Accordingly, he inflicted the punishment of withholding the increment of the appellant without cumulative effect for two years.

3. Aggrieved over the said order passed by the third respondent, the appellant preferred an appeal before the second respondent, who having considered the said appeal, had passed an order dated 15.03.2008, under which, the second respondent has confirmed the order passed by the original authority viz., the third respondent. Still aggrieved over the same, the appellant preferred revision before the first respondent and the first respondent having considered the said revision has pointed out that though the Enquiry Officer's report says that charges 1 and 2 were not proved and 3 & 4 alone were proved, both the authorities concurrently held that the charges 1, 2 and 3 were proved and 4 not proved. Therefore, it shows that either it is based on the non application of mind or otherwise if the original authority decided to differ with the conclusion given by the Enquiry Officer to that extent notice should have been given to the delinquent, that is the appellant, without which, since such a conclusion has been erroneously



W.A.(MD)No.1104 of 2012

arrived at as against the report of the Enquiry Officer given, which has been confirmed by the appellate authority, the second respondent. The said *modus operandi* adopted by the said authorities having been found fault with by the first respondent, he passes an order by issuance of G.O.Ms.No. 257, Co-operative Food and Consumer Protection Department, dated 07.07.2011, under which, the first respondent had remitted the matter back to the original authority viz., the third respondent to revisit the issue and rehear the matter only from where the discrepancy occurred, that means, if at all the original authority wants to differ with the conclusion arrived at by the Enquiry Officer proper notice has to be given to the delinquent, that is the appellant and thereafter, a decision can be taken.

4.Though this order is infact in favour of the appellant, who was the writ petitioner before the Writ Court he had chosen to file a writ petition in W.P(MD)No.9638 of 2011 which was considered and rejected by the order impugned if the writ Court dated 09.10.2012.

5.We have gone through the order passed by the learned Judge dated 09.10.2012, where the learned Judge having discussed the four charges



W.A.(MD)No.1104 of 2012

framed against the appellant/writ petitioner and after having gone through the orders passed by the original authority as well as the appellate authority, had decided that the revisional authority, viz., the first respondent since he has rectified the mistake committed by both the original authority as well as the appellate authority and he remanded the matter back for reconsideration only from that stage, where proper course of action should have been taken by the original authority which has been rightly taken by the revisional authority, therefore, confirming the same the learned Judge rejected the plea raised by the petitioner before the Writ Court.

6.Insofar as the said view taken by the learned Judge in the order impugned is concerned, we are of the considered view that absolutely there is no error committed by the learned Judge. If at all the disciplinary authority is to differ from the view expressed by the Enquiry Officer in the report to be submitted in this regard he has to give notice to the delinquent, and after hearing the delinquent only, such a different view can be taken by the disciplinary authority without which since such a view has been taken and that order passed by the original authority since has been confirmed by the appellate authority it was corrected by the orders of the first respondent



W.A.(MD)No.1104 of 2012

which was impugned in the writ petition. Therefore, the reasons given by the learned Judge in confirming the said order of the first respondent which was impugned before the writ Court is fully justifiable and hence, the same does not warrant any interference from this Court.

7.In the result, this writ appeal fails and hence, it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) & (K.K.R.K, J.)
10.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Ns



WEB COPY



W.A.(MD)No.1104 of 2012

To

- 1.The Secretary to Government,
Co-operative Food and Consumer Protection Dept.,
Fort St.George,
Chennai.
- 2.The Registrar of Co-operative Societies,
Chennai-10.
- 3.The Joint Registrar of Co-operative Societies,
Karur Region, Karur.
- 4.The Joint Registrar of Co-operative Societies,
Trichy.
- 5.The Deputy Registrar of Co-operative Societies,
Karur Region, Karur.



WEB COPY



W.A.(MD)No.1104 of 2012

R.SURESH KUMAR, J.

AND

K.K.RAMAKRISHNAN, J.

Ns

W.A.(MD)No.1104 of 2012

and

M.P(MD)No.1 of 2012, 1 of 2013 and

C.M.P(MD)No.8218 of 2016

10.03.2023