



W.P.(MD)No.3992 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3992 of 2020

and

W.M.P.(MD)Nos.3390 and 3391 of 2020

P.Balasubramanian

... Petitioner

Vs.

1. The Joint Registrar / Managing Director (Special Officer),
Q-816, Ramanathapuram District Consumer,
Co-operative Whole Sale Society Limited,
265-F, Vandikara Street,
Ramanathapuram - 623 501.

2. The Deputy Registrar / Managing Director,
Q-816, Ramanathapuram District Consumer,
Co-operative Whole Sale Society Limited,
265-F, Vandikara Street,
Ramanathapuram - 623 501.

3. The Labour Officer,
Department of Labour,
Ramanathapuram,
Ramanathapuram District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records passed by the first respondent dated 07.03.2016 made in Na.Ka.No.885/2015 and quash the same as illegal and devoid of merits in respect of me forthwith.

For Petitioner : Mr.A.Uthayakumar
For Respondents : Mr.A.Baskaran
Addl. Govt. Pleader for R1 & R3
Mr.S.Seenivasagam for R2

ORDER

The impugned order passed by the first respondent vide proceedings in Na.Ka.No.885/2015, dated 07.03.2016, is under challenge in the present Writ Petition.

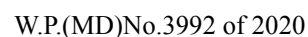
2. The case of the petitioner is that the petitioner was appointed as a Salesman in the respondent Society on 07.05.1991 and his services were regularised on completion of 480 days. While he was working as Sales Assistant in the said Society in the year 1993, he was suspended and subsequently dismissed retrospectively as from the date of suspension from



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the post of Sales Assistant. However, according to the petitioner, he was dismissed on 08.11.1991.

3. The allegation as against the petitioner was that on 20.04.1993, when the charge was about to be handed over to the concerned person, there had been a short fall of commodities to the tune of Rs.30,311.80/- As against the dismissal order, he has approached the third respondent to settle the issue under Section 12(4) of the Industrial Disputes Act and he has paid the entire shortage amount of Rs.30,311.80/- on 21.09.2015. Therefore, the third respondent has passed an order in favour of the petitioner. After dismissal from service, he has approached the second respondent to revoke the dismissal order and the same was rejected vide proceedings dated 06.04.1993. Thereafter, the entire issue was settled before the third respondent and he has approached the second respondent by filing a Revision Petition before the first respondent Under Section 153 of the Tamil Nadu Co-operative Society Act and the same was dismissed on the ground of delay and laches, vide order, dated 30.10.2015. After dismissal of the said revision, he filed an appeal before the first respondent on 28.12.2015 and



4. The learned counsel appearing for the petitioner would submit that admittedly the petitioner was removed from service in the year 1991 and the same was served only on 1993 and thereafter, the entire dues were settled by the petitioner. Hence, there is no legal impediments for the respondents for reinstatement of the petitioner. Accordingly, he prayed for appropriate orders.

5. Per contra, the learned counsel appearing for the second respondent would submit that admittedly the petitioner was removed from service on 08.11.1991 on the ground that there was deficiency of Rs.30,311.80/-. However, the said amount was not paid by the petitioner. Hence, he was permanently removed from service on the above said date and the same was served on 06.04.1993. However, the petitioner claimed that as if he paid entire amount of deficiency and on that ground, the reinstatement is impermissible and that the petitioner has not challenged the



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termination order before the Competent Authority. Without challenging the termination order, praying for reinstatement is not sustainable one. Accordingly, he prayed for dismissal of this Writ Petition.

6. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7. The facts in the present case are not in dispute. Admittedly, the petitioner has joined as Sales Assistant in the respondent Society and he was dismissed from service on 08.11.1991 on the ground of causing deficiency of stock amount of Rs.30,311.80/- and the conciliation officer submitted a failure report under Section 12(4) of the Act and subsequently, the second respondent rejected reinstatement on 06.04.1993. Thereafter the petitioner made a representation on 28.12.2015 after a lapse of more than two decades for reinstatement and the same was rejected by the second respondent which cannot be interfered with and till date, the petitioner was not challenged the termination order before the Competent Authority. Without challenging the termination order, making a representation for reinstatement after a lapse of



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two decades is not sustainable one. Hence, the prayer sought for in the Writ

Petition cannot be granted.

8. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

30.01.2023

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji



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