



W.P.(MD)No.5615 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5615 of 2023

and

W.M.P.(MD)Nos.5235 and 5236 of 2023

G.Aruna

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Ramanathapuram,
Ramanathapuram District.

2.The Deputy Registrar of Co-Operative Societies,
Vandikaratheru,
Ramanathapuram District.

3.The Managing Director,
Ramanathapuram District Central Co-Operative Bank,
Ramanathapuram.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of suspension passed by the 3rd respondent in Na.Ka.003329-2017/E3 dated 21.08.2017 and quash the same as illegal.



W.P.(MD)No.5615 of 2023

For Petitioner : Mr.M.Sricharan Rangarajan, Senior Counsel,
For Mr.N.Sathiswaran.

For Respondents : Mr.K.S.Selvaganesh,
Addl. Government Pleader for R1 & R2.
Mr.D.Shanmugaraja Sethupathi,
Standing Counsel for R3.

* * *

ORDER

Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the respondents 1 and 2 and the learned standing counsel for the third respondent.

2.The petitioner joined the third respondent bank as Assistant Manager in the year 2007. She became Branch Manager in the year 2011. She was working as Branch Manager in Kamudhi Branch from 03.02.2014 to 19.07.2017. An allegation was made that during her tenure in Kamudhi Branch, she had been responsible for causing loss to the bank to the tune of Rs.49,79,611/-. In this regard, enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 was conducted. It was followed by registration of a criminal case. Surcharge



W.P.(MD)No.5615 of 2023

proceedings were initiated under Section 87 of the Act. Parallely, charge memo was issued in the years 2018 and 2022. The criminal case is pending as on date. The surcharge proceedings concluded against the petitioner and the challenge mounted by the petitioner is pending at the Civil Revision Petition stage.

3.The petitioner was suspended from service on 21.08.2017. The petitioner seeks revocation of the same and re-instatement. The question that arises for consideration is whether this Court can grant any relief to the petitioner.

4.There cannot be any dispute that a suspended employee is entitled to subsistence allowance. It is true that the petitioner had been saddled with surcharge order and she has not obtained any interim order in her favour in the pending Civil Revision Petition. Be that as it may, the disbursement of subsistence allowance cannot be withheld for whatever reason. The petitioner is entitled to claim and receive subsistence allowance and since it is stated that from July 2020, she has not been paid any subsistence allowance, the management is directed to pay the same.



W.P.(MD)No.5615 of 2023

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5.The petitioner cannot be kept under suspension for indefinitely long period. 5 ½ years is certainly a long enough period to qualify as prolonged suspension. The petitioner has given a representation in this regard. The learned senior counsel on instructions submits that the petitioner would remit her share of liability as quantified in the surcharge proceedings in lieu of dropping of disciplinary action. The petitioner is ready to contest the criminal case on merits. This offer made by the learned senior counsel sounds more like a plea bargain. The management can very well consider the same and take a call in the matter. This is not a matter in which this Court will be justified in issuing any direction and this Court can only nudge the management to consider the offer from a holistic perspective. The learned senior counsel for the petitioner submits that the petitioner will submit an appropriate representation before the third respondent within a period of one week from the date of receipt of a copy of this order and the third respondent is directed to pass order thereon within a period of four weeks thereafter. The petitioner is given liberty to move the management in this regard.



W.P.(MD)No.5615 of 2023

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6. With this liberty to the petitioner and with the aforesaid two fold direction to the third respondent, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.03.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Note : Issue order copy on 17.03.2023.

To:-

1. The Joint Registrar of Co-operative Societies,
Ramanathapuram,
Ramanathapuram District.
2. The Deputy Registrar of Co-Operative Societies,
Vandikaratheru,
Ramanathapuram District.



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W.P.(MD)No.5615 of 2023

G.R.SWAMINATHAN,J.

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W.P.(MD)No.5615 of 2023

15.03.2023