



W.P.(MD).No.12696 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

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Balasubramanian

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative
(Public Distribution System),
Pudukkottai District.

2.The Sub Registrar of Co-operative
(Public Distribution System),
Kunnandar Kovil,
Pudukkottai District.

3.The President,
No.7, Keeranur Primary Agricultural
Co-operative Credit Society Ltd.,
Keeranur,
Pudukkottai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner with effect from 14.12.2010 and provide annual increment with attendant monetary benefits.



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For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.D.S.Neduncheliyan
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the respondents to regularize the service of the petitioner with effect from 14.12.2010 and provide annual increment with attendant monetary benefits.

2. The petitioner joined as a Salesman in the Co-operative 3rd respondent society on 06.08.1993 and was posted as Salesman in Ration Shop at Mosakudi. While he was on duty on 11.11.2014, the 2nd respondent conducted surprise check in the ration shop at Mosakudi and found that there was a shortage of Rice, Sugar and other essential articles like Kerosene, Oil and Grains. It was also identified that the items missing were sold without production of family cards, as a result of which the 2nd respondent quantified the value of the alleged loss at Rs.4,150/-. Pursuant to the same, the petitioner was placed under suspension on 21.11.2014 by the 3rd respondent at the instance of the 1st respondent.



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3. The 3rd respondent issued charge memo to the petitioner on 18.12.2014, for which the petitioner offered his explanation. In the meanwhile, the petitioner remitted the entire alleged deficit amount of Rs.4,150/- on 02.12.2014 and Rs.4,300/- on 23.02.2015 and the alleged monetary loss to the 3rd respondent is compensated by the petitioner himself.

4. In furtherance to the same, vide resolution no.234, dated 23.02.2015, the 3rd respondent Society resolved the all further proceedings. However, the petitioner's suspension order was not revoked and hence, he filed a writ petition before this Court in W.P(MD)No.3635 of 2016. When the matter was taken up for hearing, the 3rd respondent Society informed the Court that as early as 11.01.2017 itself, resolution was passed to reinstate the petitioner back to the service and recording the same, the said writ petition was disposed. Thereafter, vide order, dated 04.04.2017, the petitioner was reinstated back to service till August 2015. While in suspension, the petitioner was provided with subsistence allowance from the date of suspension. However, the petitioner was not regularized with effect from 14.12.2010, for which the petitioner filed a Writ of Mandamus and this Court on 22.03.2019, directed the respondents to consider his representation, dated 26.08.2017 and regularize his service. While



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so, the 3rd respondent passed an order on 11.08.2022 imposing the punishment of stoppage of increment for 2 years with cumulative effect for the lapses, which took place in the year 2010. Against which, the petitioner preferred an appeal, dated 11.08.2022 before the 1st respondent under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner had sent a representation to the 1st respondent on 21.01.2023 requesting to set aside the order of punishment and provide annual increment and other monetary benefits. However, no action was taken on his representation.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.



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6. Without going into the merits of the case, this Court direct the 1st respondent to consider the representation made by the petitioner, dated 14.12.2010 and pass orders in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition stands disposed of. No costs.

15.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

1.The Tamil Nadu State Transport Corporation (Madurai) Ltd.,
The Managing Director,
Madurai.1.The Deputy Registrar of Co-operative (Public Distribution System),
Pudukkottai District.

2.The Sub Registrar of Co-operative (Public Distribution System),
Kunnandar Kovil,
Pudukkottai District.



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L.VICTORIA GOWRI, J.

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