



W.P.(MD).Nos.7494 and 11533 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.7494 and 11533 of 2018

and

W.M.P.(MD).Nos.7163, 10502 and 10503 of 2018

W.P.(MD).No.7494 of 2018:

A.1353, Pandalkudi Primary
Agricultural Co-operative Credit Society,
Represented by its President,
Thiru.Mariappan,
Pandalkudi – 626 113,
Aruppukkottai Taluk,
Virudhunagar District.

... Petitioner

Vs.

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

2.Thiru.A.Kaliappan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent dated 09.02.2018, in proceedings Na.Ka.No: 3859/16/Sa.Pa in Revision Petition No: 02 of 2016 and quash the same as illegal and unconstitutional.



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For Petitioner : Mr.M.N.Ram Kumar
For R-1 : Mr.N.Ramesh Arumugam,
Government Advocate.
For R-2 : Mr.V.O.S.Kalaiselvam

W.P.(MD).No.11533 of 2018:

A.Kaliappan

... Petitioner

Vs.

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

2.A.1353, Pandalkudi Primary
Agricultural Co-operative Credit Society,
Represented by its President,
Thiru.Mariappan,
Pandalkudi – 626 113,
Aruppukkottai Taluk,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent revisional authority in Na.Ka.No.3859/16/Sa.Pa. dated 09.02.2018 in Revision Petition No.02/2016 in so far as imposing the punishment of 1 year increment cut and quash the same and consequently direct the second respondent to pay the consequential benefits such as reinstatement, back wages and continuity of service.



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For Petitioner : Mr.V.O.S.Kalaiselvam
For R-1 : Mr.N.Ramesh Arumugam,
Government Advocate.
For R-2 : Mr.M.N.Ram Kumar

COMMON ORDER

The Writ Petition in W.P.(MD).No.11533 of 2018 is filed by the individual and the Writ Petition in W.P.(MD).No.7494 of 2018 is filed by the Society.

2. The petitioner joined the service of the second respondent Society on 21.08.1979 and has rendered 36 years of service. On 28.04.2016, a charge memo was issued alleging that the petitioner was absented himself without any medical leave. The claim of the petitioner is that for the period from 14.12.2015 to 07.01.2016, he has submitted leave letter through letter dated 16.12.2015 and the petitioner's case was referred to the Medical Board. However, the petitioner failed to appear before the Medical Board on 11.01.2016. Therefore, a charge memo was issued and the respondents have come to the conclusion that the petitioner has deliberately absented himself and



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has imposed a punishment of dismissal from service by the original authority.

Aggrieved over the same, the petitioner has preferred Revision Petition before the first respondent who is the revisional authority. The authority vide Revision Petition No.2 of 2016 dated 09.02.2018 has reduced the punishment from dismissal from service to stoppage of increment for one year without cumulative effect. In the meanwhile, the petitioner has attained superannuation and retired from service. The case of the petitioner is that he has not paid any backwages for the absented period and has not granted any continuity of service.

3. The claim of the petitioner is that initially he had some problem in his left leg and underwent operation. Thereafter, he fell down and injured himself. Subsequently he had heart attack. Because of his illness the petitioner was incapable of attending duty. The petitioner has submitted medical leave and when the date is fixed for appearance of the petitioner before the Medical Board, the petitioner could not appear before the Medical Board. The original authority however has held the charges are proved and dismissed the petitioner from service. Subsequently, the revisional authority has considered the case of the petitioner sympathetically and has reduced the punishment of dismissal



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from service to stoppage of increment for one year without cumulative effect.

The claim of the petitioner is even the respondents ought to have considered the case of the petitioner, ought not to have imposed this punishment also. Moreover, the respondents refused to grant backwages for the period of absence from December 2015 to September 2018.

4. The petitioner has produced the relevant medical certificate before this Court. The petitioner had also produced the same before the authority, but the authorities had disbelieved the same. The petitioner has initially submitted medical certificate and had availed leave. But, subsequently there are some lapses. On perusing the records this Court is of the considered opinion that the illness of the petitioner is genuine.

5. At the time of hearing the writ petitions, the petitioner had attained superannuation and retired from service. This Court has convinced the petitioner's case ought to be considered more sympathetically. Therefore, the impugned order of stoppage of increment for one year without cumulative effect is quashed. The petitioner is entitled to regularize his service period from December 2015 to September 2018. The petitioner is entitled to continuity of



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service. The petitioner is entitled to monetary benefits even for the period of absence from December 2015 to September 2018. The respondent Society is directed to grant the entire benefits including the terminal benefits within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. In view of the above, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To
The Joint Registrar of Co-operative Societies,
Virudhunagar Region,
Virudhunagar.



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S.SRIMATHY, J.

Nsr

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