



W.P.(MD).No.1005 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1005 of 2016

and

W.M.P.(MD).Nos.830, 4230 and 4823 of 2016

The President,
R-316, Thirukaduthurai Primary Agriculture
Co-operative Credit Society Limited,
Karaipalayam,
Manmangalam Taluk,
Karur District.

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
No.170, E.V.K.Periyar Road,
Kilpauk,
Chennai – 10.

2.The Joint Registrar of Co-operative Societies,
Karur Region,
Karur.

3.Manimegalai

... Respondents



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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 relating to the proceedings of the second respondent made in Na.Ka.1471/2015 Sa.Pa (Revision Petition No.3/2015 Sa.Pa) dated 23.07.2015 and quash the same.

For Petitioner : Mr.K.Govindarajan

For R-1 and R-2 : Mr.A.Baskaran,
Additional Government Pleader.

For R-3 : Mr.P.R.Prithiviraj

ORDER

This Writ Petition is filed for Writ of Certiorari to quash the order dated 23.07.2015 passed by the second respondent.

2. This petition is filed by the President of the Society. The third respondent is an employee under the petitioner Society. The third respondent was working as a Secretary from 1989 onwards. The third respondent without proper application for leave was absented from duty from 23.08.2013 to 03.04.2014. The petitioner has directed the third respondent to appear before the Medical Board, but she refused to appear. Hence, the petitioner Society



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issued a charge memo to initiate disciplinary proceedings. After conducting an enquiry, by affording opportunity, the enquiry officer has held that the charges are proved. Subsequently, the Board of the Society imposed the punishment of removal from service and the third respondent was dismissed from service on 24.01.2015. Aggrieved against the order of dismissal, the third respondent has filed a Revision Petition before the second respondent. The second respondent has set aside the order, allowed the Revision Petition and modified the punishment as stoppage of increment for one year without cumulative effect. Aggrieved over the order of the second respondent, the petitioner Society preferred a Review Petition before the first respondent vide Revision Petition dated 16.09.2015 under Section 153 of the Co-operative Societies Act. The first respondent through proceedings dated 09.10.2015 had returned the same with an advice to file proper application. The petitioner Society submitted the Review Petition under Section 154(4) of the Tamil Nadu Cooperative Societies Act, 1983. However, the same was not entertained by citing G.O.(2D).108 Co-operative Food and Consumer Department dated 30.08.2005 which states that the power is concurrent and therefore the petitioner was directed to seek appropriate remedy elsewhere. Having left with no other option, the present Writ Petition is filed.



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3. The learned counsel appearing for the petitioner further submitted that pending Writ Petition, this Court directed the petitioner Society to pay 17B wages. Aggrieved over the same, the petitioner Society preferred Writ Appeal and the same was dismissed. Subsequently, the petitioner Society started paying 17B wages and complied with the order of this Court.

4. In the meanwhile, the third respondent was reinstated into service and was transferred to some other Society and the third respondent is continuing her service in the transferred place.

5. The third respondent had received the payment under 17B wages from 2015 until she is reinstated on 01.11.2018.

6. Since the 3rd respondent was reinstated and continuing in service which is subsequent development, pending Writ Petition, this Court is of the considered opinion that there is no necessity to go into the issues raised in this Writ Petition. Moreover, the punishment was reduced as stoppage of increment for one year without cumulative effect and this Court is of the considered opinion that the punishment is proportionate and this Court is not inclined to



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interfere in the order. The petitioner Society is directed to implement the order of punishment of stoppage of increment for one year without cumulative effect and is also directed to confer the consequential benefits to the 3rd respondent. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.02.2023

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



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To
WEB COPY

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S.SRIMATHY, J.

Nsr

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