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W.P.(MD)No.612 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.612 of 2016

and

W.M.P.(MD)No.499 of 2016

S.P.Velu

... Petitioner

vs.

- 1.The Registrar of Cooperative Societies,
Government of Tamilnadu,
No.170, Periyar E.V.R. Road,
Kilappakam, Chennai.
- 2.The Joint Registrar of Cooperative Societies,
Sivagangai.
- 3.The Special Officer,
N.N.593, Namanur Primary Agricultural
Cooperative Bank Limited,
Alavakkottai (Irruppu) Sivagangai Taluk,
Sivagangai District



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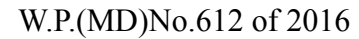
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4.The President,
N.N.593, Namanur Primary Agricultural
Cooperative Bank Limited,
Alavakkottai (Irruppu) Sivagangai Taluk,
Sivagangai District

... Respondents

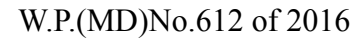
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 3rd respondent, dated 17.11.2008 and the order of the 2nd respondent passed in Na.Ka.No. 542/09/Sa Pa, dated 31.07.2009, Na.Ka.No.1018/2014 Sa Pa, dated 26.02.2015 and Na.Ka.No.3240/2015 Sa Pa, dated 30.09.2015 and to quash the same and consequently, to direct the respondents to reinstate the petitioner with back wages and also to pay all monetary benefits and attendant benefits.

For Petitioner : Mr.M.Natarajan
For R1 and 2 : Mr.K.Selvaganesan
Additional Government Pleader
For R3 and 4 : No appearance



This writ petition is filed writ of Certiorarified Mandamus, to quash the impugned order dated 17.11.2008 of the 3rd respondent, and the orders of the 2nd respondent, dated 31.07.2009, 26.02.2015 and 30.09.2015 and consequently, to direct the respondents to reinstate the petitioner with back wages and also to pay all monetary benefits and attendant benefits.

2. The petitioner joined the service as Salesman on 09.11.1987 and he has completed more than 20 years of service. While he was working as junior Clerk, there was an allegation that during inspection, there was a variation to the tune of Rs.2,47,000/- and the allegation was against three persons including the petitioner and the petitioner's share of loss was quantified as Rs.70,000/-. The petitioner was kept under suspension by the order dated 30.11.2007 by the 2nd respondent. Thereafter, on



3. The contention of the petitioner is that the enquiry officer has not granted sufficient opportunity and the relevant documents which the petitioner wanted to rely on was not served on the petitioner. Moreover, the enquiry officer did not allow the petitioner to examine or cross examine any witness, thereby there is violation of principles of natural justice. However, the respondents have held the charges as proved and the respondents dismissed the petitioner from service, vide order, dated 17.11.2008.

4. The petitioner preferred an appeal to the Joint Director and the same was dismissed. The petitioner approached this Court by filing W.P. (MD)No.14220 of 2009 and the same was dismissed, vide order, dated



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25.10.2010. Thereafter, the petitioner filed a review application and the same was dismissed. Aggrieved over the dismissal order, the petitioner is before this Court.

5. In the meanwhile, the respondents initiated criminal proceedings in C.C.No.104 of 2009. The Criminal Court convicted the petitioner, vide judgment, dated 27.08.2014. Thereafter, based on Section 4(1) and 4(3), the petitioner was directed to appear before the authorities for one year and then the petitioner was exonerated from the punishment. Hence the learned Counsel appearing for the petitioner submitted that respondents ought to have taken the fact that the was petitioner as acquitted.

6. The respondents vehemently opposed that such a plea cannot be entertained at all. The petitioner was convicted and was released under



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section 4(3) of Probation of Offenders Act. When the charges were proved and the petitioner was convicted then the petitioner cannot claim to reinstate. Moreover the order of dismissal is appropriate to the alleged offences. Hence, the respondents prayed to dismiss the writ petition.

7. After considering the rival submissions of both sides, this Court is of the considered opinion that the petitioner's claim is that proper documents were not granted to the petitioner. The said contention cannot be accepted, since the petitioner has not given explanation at all at the relevant point of time. If the petitioner had submitted relevant explanation and sought the relevant documents, the respondents would have served to the petitioner. Moreover, in the enquiry proceedings, the respondents have allowed the petitioner to peruse the documents which would be relied on and the petitioner has also perused the documents.



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8. However, the learned Counsel appearing for the petitioner submitted the enquiry report is not a speaking order and no reasons were assigned. Also, in the appeal and review proceedings, the concerned authorities have passed non speaking orders.

9. On perusal of the same, it is seen that the appellate authorities have not passed any speaking order, they have simply relied on the enquiry officer's report and passed an order. But this Court cannot close its eyes when the petitioner is convicted in the criminal proceedings. Therefore, this Court is not accepting the case of the petitioner as such. However, since the petitioner has served from 1987 onwards for more than 21 years, this Court is modifying the punishment of dismissal from service as compulsory retirement and the date of dismissal would be the date of compulsory retirement. The petitioner is entitled to terminal benefits for the said 21 years of service. The respondents are directed to



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pay the terminal benefits and other benefits for the service rendered from 09.11.1987 to 17.11.2008. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

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S.SRIMATHY, J

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