



WEB COPY



W.A.No.934 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.No.934 of 2021
and
CMP.No.5502 of 2021

The Special Officer,
K248 Karanipalayam Primary
Agricultural Co-Operative Bank Ltd.,
Karanipalayam, Velayutham Palayam (Post)
Avinashi Taluk-641 654.
Coimbatore District.

... Appellant

Vs.

1. K.Karuppannan
2. The Joint Registrar of Co-Operative
Societies/Chairman
Common Cadre Service Committee,
Coimbatore Region,
Coimbatore District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 27.06.2019 passed in WP.No.7534 of 2008 and allow the Writ Appeal.



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For Appellant : Mr.N.Umapathi

For Respondents : Mr.Ma.Pa.Thangavel for R1
Mr.G.Krishna Raja
AGP for R2

J U D G M E N T

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The intra-Court appeal has been instituted challenging the writ order dated 27.06.2019 passed in WP.No.7534 of 2008. The Special Officer of Karanipalayam Primary Agricultural Co-Operative Bank Limited is the appellant. The first respondent instituted a writ proceedings challenging the order of dismissal dated 09.11.2007. The order of dismissal was passed by the Chairman, Common Cadre Authority and the initiation of disciplinary proceedings was made by the Special Officer of the Bank. The Charge Memo was issued and an enquiry was conducted. Based on the Enquiry conducted, the Common Cadre Authority passed final orders imposing penalty of dismissal from service.

2. Mr.Ma.Pa.Thangavel, learned counsel appearing on behalf of the first respondent would submit that the procedures as contemplated were not followed. The subsistence allowance due to the first respondent had not been



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paid. Therefore, the order of dismissal is to be set aside. The writ Court has dealt with the issues and allowed the writ petition.

3. Mr.Ma.Pa.Thangavel, learned counsel would submit that the Common Cadre Authority has no jurisdiction to issue the final order without conducting an enquiry. On that ground also, the Writ Appeal is to be dismissed.

4. It is not in dispute that the Appointing Authority is the Board of the Co-Operative Society. The Special Officers are appointed to exercise the powers conferred on the Board under the Tamil Nadu Cooperative Societies Act. Therefore, there is no impediment to the Special Officer to initiate disciplinary proceedings, i.e., to say, to place an employee under suspension to issue charge memo, conduct enquiry. Thereafter files are to be placed before the Common Cadre Authority for consideration and to pass final orders in the Departmental disciplinary proceedings. Admittedly, the Common Cadre Authority Notification has been withdrawn by the Government in the year 2008. Thereafter, the Board became the Disciplinary Authority.



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5. Be that as it may, the present case requires an effective adjudication from the hands of the Revision Authority. Mr.Ma.Pa.Thangavel would raise several grounds on merits, which all are to be adjudicated based on the documents and evidences available on record. The disputed facts cannot be adjudicated in a writ proceedings. The order of the original Disciplinary Authority is under challenge. That being so, the Writ Court ought to have relegated the first respondent to approach the Revision Authority under Section 153 of the Act. Exhausting the statutory remedy is of paramount importance. The factual findings of the Original Authority and the Revision Authority in the present case would be of greater assistance to the High Court for effective exercise of the powers of judicial review under Article 226 of The Constitution of India. Therefore, this Court is not inclined to consider the disputed facts and such facts are to be scrutinised with reference to the Original records and evidences made available. Thus, the first respondent is at liberty to raise all factual and legal grounds before the Revision Authority by filing a revision petition under Section 153 of The Tamil Nadu Cooperative Societies Act. Since the Common Cadre Authority has passed the order of dismissal, the first respondent is at liberty to file a Revision Petition before the Registrar of Cooperative Societies, Chennai, who in turn



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shall entertain the revision without reference to the delay and adjudicate the case on merits and in accordance with law and by affording opportunity to the writ petitioner, and decide as expeditiously as possible.

6. With the above directions, the writ order impugned dated 27.06.2019 passed in WP.No.7534 of 2008 is set aside and the Writ Appeal stands allowed. No costs.

[S.M.S., J.] [C.K., J.]
10.07.2024

kmi

Index : Yes

Speaking order : Yes

Neutral Citation : Yes/No

To

The Joint Registrar of Co-Operative
Societies/Chairman
Common Cadre Service Committee,
Coimbatore Region,
Coimbatore District.



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