



W.P.No.3861 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.3861 of 2021

S.Sundaram

... Petitioner

Vs.

1.The Deputy Registrar / Special Officer,
Ammamet Urban Cooperative Bank Ltd,
Salem 636 003.

2.The Joint Registrar of Cooperative Societies,
Salem Region, Salem.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pass appropriate orders within a limited time frame on the claim of the petitioner for deemed reinstatement in service and for consequential service and pensionary benefits in the light of the representation dated 30.09.2020 and in the light of the judgment dated 31.07.2017 by the Judicial Magistrate No.5, Salem in C.C.No.108/2007, C.C.No.109/2007, C.C.No.110/2007 read with Section 12 of the probation of Offenders Act 1958.



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For Petitioner : Mr.G.Punniakoti

For Respondents : Mr.L.P.Shanmugasundaram for R1
Mr.R.P.Murugan Raja, GA for R2

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to direct the respondents to pass appropriate orders within a limited time frame on the claim of the petitioner for deemed reinstatement in service and for consequential service and pensionary benefits in the light of the representation dated 30.09.2020 and in the light of the judgment dated 31.07.2017 by the Judicial Magistrate No.5, Salem in C.C.No.108/2007, C.C.No.109/2007, C.C.No.110/2007 read with Section 12 of the probation of Offenders Act 1958.

2. Heard Mr.G.Punniakoti, learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned counsel for the first respondent and Mr.R.P.Murugan Raja, learned Government Advocate for R2.



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3. The petitioner who was working as Assistant Manager of the first respondent Cooperative Bank has been charged with certain criminal offences and for which, criminal proceedings were pending in C.C.No.108,109, 110 of 2007. The contention of the learned counsel for the petitioner is that in the judgment dated 31.07.2017, even though the guilt against the petitioner was proved, no punishment was imposed on the petitioner and he was released under Section 4(3) of the Prohibition of Offenders Act. Hence the petitioner claims that the impact of the judgment should be considered as deemed reinstatement of himself into service and hence, he should be given with all other service and attendant benefits as claimed by him.

4. The learned Government Advocate for the second respondent submitted that the petitioner has already been removed from service by the order of the second respondent dated 29.07.2006 in view of the charges framed against him when the disciplinary proceedings were proved. It is further submitted that the petitioner who had not filed an



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appeal challenging the above proceedings cannot seek the relief herein on the basis of the judgment of the criminal court.

5. Even though the petitioner was facing criminal proceedings, the disciplinary proceedings have already been initiated against him and at the conclusion of the same, he was removed from service. Admittedly the petitioner has not challenged the order of removal from service by filing any appeal. Even in the criminal proceedings, the petitioner was not acquitted on the finding that the guilt against him was not proved. Even though the guilt against the petitioner was proved, he was released only under Prohibition of Offenders Act. Now the petitioner had taken advantage of the result of the criminal proceedings and has filed this Writ Petition based on the certificate given by the Probation Officer that his conduct during the period of suspension was good.

6. It is needless to state that the disciplinary proceedings and criminal proceedings are different. In the case in hand, the disciplinary proceedings have been initiated against the petitioner even before the



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criminal proceedings have been initiated and he was removed from service. The petitioner admittedly did not file any appeal under Section 153 of the Act and was simply acquiescing the same. The intention of the petitioner is to get acquittal from the disciplinary proceedings by taking advantage of the indulgence shown by the Criminal Court in releasing the petitioner under Probation of Offenders Act without convicting him.

7. It is submitted by the learned counsel for the petitioner that the result of the criminal proceedings would have the impact of deemed reinstatement. Such a submission of the petitioner is not acceptable in view of the fact that he had already been removed from service and the criminal proceedings is completely independent. In fact, the criminal proceedings was pending even after the petitioner was removed from service. The petitioner who had omitted to challenge the order of dismissal by invoking Sections 153 and 154 of the Act, cannot take a short circuit and claim that he should be considered as a person who continued in service in view of the result of the criminal proceedings and that he is entitled to all consequent and attendant service benefits. The



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petitioner is liable to face the consequent removal from service order already been passed. However, the petitioner is not deprived to get any terminal benefits which he is entitled to get even in case he is removed from service.

8. With the above observations, this Writ Petition is dismissed. No costs.

11.01.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

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Salem 636 003.
- 2.The Joint Registrar of Cooperative Societies,
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R.N.MANJULA, J.

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