



W.P. No.21586 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.21586 of 2012

and

M.P.No.1 of 2012

1.S.Sasikala (Deceased)

2.K.Jayamani

3.K.Mohan Kumar

(P2 and P3 are substituted as LR's of deceased P.1, as per order dated 03.10.2024 in w.M.P.No.30337 of 2024 in W.P.No.21586 of 2012 by MSKJ)

... Petitioner

Vs.

- 1.The Joint Registrar,
Tamil Nadu Co-operative Societies,
Coimbatore Region,
Coimbatore.
- 2.The Special Officer/Joint Registrar,
Thudiyalur Co-operative Agriculture Service Society,
Thudiyalur,
Coimbatore-641 034.

...Respondents



W.P. No.21586 of 2012

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the entire records in pursuant to the impugned order passed by the 2nd respondent dismissing the petitioner from service in proceedings No.Na.Ka.No.676/2010/ 01 dated 31.01.2011 and the impugned order passed by the 1st respondent in Revision Petition No.2425 of 2011 Vae 2 dated 08.09.2011 and also the impugned order passed by the 1st respondent in Ma.Ce.Ma.No.10150 of 2011/Vae 2 dated 06.03.2012 confirming the order passed in Revision Petition in R.P.No.2425/2010/Vae 2 dated 08.09.2011 passed by the 1st respondent and quash the same and consequently direct the 2nd respondent to reinstate the petitioner with full back wages and all benefits with effect from 31.01.2011.

(Prayer amended as per order dated 03.10.2024 in W.M.P.No.35265/2018 in W.P.No.21586/2012 by MSKJ)

For Petitioners : M/s.G.B.Saravanabhavan

For Respondents : Mr.P.Ganesan
Government Advocate for R1
Mr.Kasirajan, For R2

ORDER

The 1st petitioner herein, while working as a Junior Clerk cum Cashier in the second respondent/ society, Thiru. R.Subramanian was kept in-charge



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of the post of Manager of the second respondent on 25.08.2010. Though society maintained the procedure that both the Manager and the Cashier must handled the Double Key locker together. Alleging misappropriation of an amount of Rs.40,000/- by the 1st petitioner and Thiru. R.Subramanian from the locker of the second respondent, disciplinary proceedings were initiated against them, resulting in imposing punishment of dismissal from service through Proceedings in Na.Ka.No.676/2010/01 dated 31.01.2011 passed by the second respondent. Aggrieved by the said order passed by the second respondent, the petitioners herein filed an appeal under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act', 1983 for short) and the said appeal was rejected by the first respondent by passing orders in Proceedings in R.P.No.2425/2010/Vae2 dated 08.09.2011. Thereafter petitioners filed review under Section 154 of Act, 1983, but the same was also rejected by order dated 06.03.2012. Aggrieved by the said orders dated 08.09.2011 and 06.03.2012 and the primary order passed by the second respondent, the petitioners herein approached this Court by filing the present Writ Petition.

2. The main contention raised by the learned counsel for the petitioners is that the first respondent herein, while exercising its appellate



power under Section 153 of the Act, 1983, failed to consider various contentions and grounds raised by the petitioners in the appeal filed by the petitioners, thereby great prejudice is caused to the 1st petitioner. It is also contended that for want of consideration of the case of the 1st petitioner, as raised before the appellate authority, the very purpose of providing statutory appeal under Section 153 of the Act, 1983 is defeated and the impugned order dated 08.09.2011 was passed in gross-violation of the principles of natural justice.

3. The learned counsel appearing for the respondents tried to supplement the reasons for passing the impugned order dated 08.09.2011 by assigning the reasons for the same in the counter affidavit filed by the respondents.

4. In the considered view of this Court, in terms of the settled legal position, the order passed by the quasi-judicial authority has to fall or sustain on the reasons assigned in the said order, but not basing upon the reasons supplemented by way of counter affidavit.



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5. This Court has gone through the appellate order and the order passed in Review Petition in R.P.No.2425/2010/Vae2 passed by the first respondent dated 08.09.2011, which is running into about 18 pages, but the entire 17 pages of the said order is nothing but extraction of the grounds and contentions raised by either side and extraction of the written arguments filed by either side. In the operative portion, without there being any reference to the grounds and contentions raised on either side, by a cryptic order, confirmed the orders passed by the second respondent.

6. This Court is unable to comprehend the manner in which the appellate power conferred upon the first respondent under Section 153 of the Act, 1983 was exercised. By passing such a cryptic order, the very purpose of providing an appeal under Section 153 of the Act, 1983, which is also a first appeal and the final authority on the factual aspects is defeated and the petitioner is deprived of his valuable right of availing the remedy of appeal.

7. In the light of the above, this Court is of the considered view that the impugned order dated 08.09.2011 passed by the first respondent in Proceedings R.P.No.2425/2010/Vae2 and the order in Ma.Ce.Ma.No.10150



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of 2011/Vae 2 dated 06.03.2012 are not sustainable and the matter is required to be considered afresh by the first respondent by duly affording an opportunity of personal hearing to the 1st petitioner and the second respondent.

8. Accordingly, this Writ Petition is allowed by duly setting aside the Proceedings in R.P.No.2425/2010/Vae2 dated 08.09.2011 and in Ma.Ce.Ma.No.10150 of 2011/Vae 2 dated 06.03.2012 passed by the first respondent and the matter is remanded back to the first respondent for considering the appeal filed by the petitioner under Section 153 of the Act, 1983 afresh by duly affording an opportunity of personal hearing to all the parties concerned. The first respondent is directed to dispose of the appeal filed by the petitioner as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed. Consequently, miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
vsn

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To:

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MUMMINENI SUDHEER KUMAR,J.

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