



WEB COPY



W.P.No.18601 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.18601 of 2021

and

W.M.P.No.19842 of 2021

A.Kalaivanan

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Mayiladuthurai Circle,
Mayiladuthurai,
Mayiladuthurai District.

2.The President,
O.S.52, Sirkazhi Teachers Cooperative
Thrift and Credit Society,
No.24, Car North Street,
Sirkazhi – 609 110,
Mayiladuthurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the entire records relating to the impugned communication dated 31.07.2021 sent by the 2nd respondent to the 1st respondent and quash the same.



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For Petitioner : Mr.C.Prakasam

For Respondents : Mr.S.Ravikumar
Special Government Pleader
for R1

Mr.L.S.M.Hasan Fizal
for R2

ORDER

The petitioner herein was appointed as an Office Assistant by the second respondent in the year 2009 and he was continued in service till in the year 2021. During the interregnum, it is noticed that the appointment of the petitioner as an Office Assistant is not in accordance with law and accordingly surcharge proceedings were initiated against the board of the second respondent as well as the petitioner and recovery of such amounts were ordered including the amounts that were paid to the petitioner towards his salary. However, the said surcharge order came to be modified by exonerating the petitioner from the effect of recovery.

2. In the meanwhile, the second respondent addressed a letter to the first respondent intimating the first respondent that the service of the petitioner was terminated with effect from 31.07.2021 on the ground that the appointment of



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the petitioner was not in accordance with law. Aggrieved by the said communication dated 31.07.2021, the petitioner filed the present writ petition.

3. It is an admitted fact that the petitioner was appointed on 01.11.2009 as an Office Assistant and subsequently the petitioner was appointed on regular basis in the time scale pay of Rs.3300-10000 with a grade pay of Rs.2000/- and he was continued in service till in the year 2021.

4. Even assuming that the appointment of the petitioner is contrary to rules or irregular on any count, the service of the petitioner cannot be terminated without following due process of law. Further, in the instant case, there is no order passed as on date, terminating the service of the petitioner except the impugned communication addressed to the first respondent by the second respondent, intimating that the service of the petitioner were terminated with effect from 31.07.2021. Admittedly, no notice was issued to the petitioner before addressing the impugned communication dated 31.07.2021 for terminating his service. In the circumstances, the impugned communication declaring that the service of the petitioner was terminated with effect from 31.07.2021 and marking a copy of the said communication to the petitioner is



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liable to be declared as illegal for want of compliance of principles of natural justice.

5. Accordingly, the impugned communication is declared as illegal and arbitrary on the sole ground of the violation of principles of natural justice. Accordingly, the same is set aside. However, it is left open to the respondents to take appropriate steps in accordance with law.

6. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

11.06.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

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MUMMINENI SUDHEER KUMAR, J.

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