



W.P.No.5822 of 2016

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 05.09.2024

CORAM:

**THE HONOURABLE MRS.JUSTICE N.MALA**

W.P.No.5822 of 2016

R. Kalaichelvan

... Petitioner

**Vs.**

1. The Joint Registrar of Co-operative

Societies

Nagapattinam District,

Nagapattinam.

2. The Deputy Registrar of

Cooperative Societies

Nagapattinam Circle

Nagapattinam District.

3. The President

Z 719, Thittacheri Primary Agricultural

Co-operative Credit Society Ltd.,

Purakiramam 609 703

Nagapattinam District.

4. K. Thirunavukkarasu

... Respondents



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**PRAYER :** Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus calling for the records of the third respondent in Na.Ka.No.1/2015 dated 31.01.2016 relating to order of dismissal from service and consequentiality direct the respondents to settle all the retirement benefits due to the petitioner.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.S.Ravikumar  
Special Govt. Pleader for R1 & R2  
Mr.V.Ravichandran for R3  
No appearance for R4

### **ORDER**

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the records of the third respondent in Na.Ka.No.1/2015 dated 31.01.2016 relating to order of dismissal from service and consequently direct the respondents to settle all retirement benefits due to the petitioner.

2. The petitioner joined as Secretary by way of direct recruitment on 03.03.1978 in the 3<sup>rd</sup> respondent Society and reached the age of superannuation on 31.12.2015. While so, the petitioner was placed under suspension pursuant to the orders of the third respondent dated 31.03.2015, stating that there was an



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inquiry ordered under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983. On 10.03.2015 the second respondent nominated an inquiry officer to conduct inquiry. On completion of the proceedings under Section 81, the petitioner filed Revision under Section 153 of the Act on 26.06.2015 before the first respondent to revoke the order of suspension and the same was rejected by proceedings dated 03.07.2015 on the ground that the disciplinary proceedings were pending against him. Thereafter, the third respondent issued a charge memo dated 26.10.2015 calling for explanation to the charges from the petitioner. On 07.11.2015 the petitioner gave a representation to the third respondent requesting him to furnish the documents relating to the inquiry, but the third respondent by his proceedings dated 14.11.2015, rejected the request stating that the petitioner was trying to delay the proceedings.

3. Thereafter, the third respondent nominated the fourth respondent a retired Deputy Registrar / Advocate as an Enquiry Officer. The enquiry officer issued notice of enquiry, fixing the date of hearing on 17.12.2015. The petitioner also made a representation dated 13.12.2015, to the enquiry officer to direct the third respondent to furnish the documents before the commencement of the enquiry but the same was also not considered. Thereafter, he appeared



before the enquiry officer on 17.12.2015 and reiterated his request to furnish the documents. Instead of considering the petitioner's request the fourth respondent seemed more keen to proceed with the domestic enquiry. On the said date no statements were recorded and no documents were marked in support of the charge and so the petitioner was under the impression that the enquiry would be conducted effectively on some other day after getting the records from the second respondent. To the petitioner's dismay, the disciplinary proceedings were concluded on the same day and the report dated 24.12.2015 was submitted holding that the charges against the petitioner were proved. Based on the same, a show cause notice dated 26.12.2015, enclosing the report of the enquiry officer was issued by the third respondent with a proposal to dismiss the petitioner from service. Even before the petitioner could raise his objections to the show cause notice, the third respondent passed another order dated 29.12.2015, extending the period of suspension beyond the petitioner's date of superannuation on 31.12.2015, with a condition that the petitioner would not be entitled to subsistence allowance. According to the petitioner there was no power or authority available either under the Act, rules or in the bye laws to extend the suspension of a retired person. The petitioner stated that even if the appointing authority/disciplinary authority wanted to continue the disciplinary



proceedings post retirement, he ought not to have allowed the petitioner to retire from service, but ought to have retained him in service so as to continue the disciplinary proceedings. As against the show cause notice issued by the third respondent, the petitioner filed W.P.No.3185 of 2016 and the same was pending with interim orders. Meanwhile the third respondent dismissed the petitioner from service by order dated 31.01.2016. Therefore, left with no other option the petitioner filed the writ petition.

4. The 2<sup>nd</sup> respondent filed a detailed counter stating that the petitioner even without exhausting the alternate remedy, rushed to this Court by filing the writ petition and therefore the writ petition was liable to be dismissed.

5. At the time of hearing, the learned counsel for the petitioner submitted that the petitioner may be given the opportunity to exhaust the alternate remedy of revision before the first respondent under Section 153 of the Cooperative Societies Act. Therefore, the learned counsel prayed that a direction may also be issued to the respondents to dispose of the revision within a time frame to be fixed by this Court. The learned counsel further submitted that even before the expiry of 90 days provided for filing revision, the petitioner approached this



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Court by way of writ petition and therefore the period spent in prosecuting the writ petition may be excluded.

6. Considering the limited prayer of the learned counsel for the petitioner, the writ petition is disposed of with liberty to the petitioner to file a revision under Section 153 of the Cooperative Societies Act before the 1<sup>st</sup> respondent, within a period of three weeks from the date of receipt of a copy of this order. It is clarified that if the revision is filed within three weeks the respondent shall not reject the same on the point of limitation but shall consider the same on merits and in accordance with law within a period of six weeks from the date of receipt of the revision petition.

7. With the above direction and observation, the writ petition is disposed of. No costs.

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Index : Yes /No

Speaking Order : Yes/No

Note:-

Registry is directed to return the original impugned order to the learned counsel for the petitioner to



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enable him to file review by taking necessary endorsement.

**N. MALA, J.**

dpq

To

1. The Joint Registrar of Co-operative  
Societies  
Nagapattinam District,  
Nagapattinam.

2. The Deputy Registrar of  
Cooperative Societies  
Nagapattinam Circle  
Nagapattinam District.

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