



WA No.408 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA No.408 of 2022

K.Palani

... Appellant

versus

1.The Joint Registrar of Co-operative Societies
cum Revisional Authority
Cuddalore Region, 3, Beach Road,
Cuddalore-607 001.

2.The Administrator/President,
Parvathipuram Primary Agricultural Co-operative
Credit Society Ltd.,
Neyveli Main Road, Vadalur & Post,
Kurinjipadi Taluk,
Cuddalore District.

... Respondents

PRAYER: Writ Appeal filed against the order in WP No.10897of 2013 dated 08.10.2020 of the learned Single Judge.



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For the Appellant

:Mr.K.M.Ramesh
Senior Counsel
for Mr.V.Subramani

For the Respondents

:Mr.V.Nanmaran
Additional Government Pleader
for respondents 1 and 2

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The writ appeal is filed against the order in WP No.10897 of 2013 dated 08.10.2020 of the learned Single Judge.

2. Brief facts of the case:

2.1. The appellant/writ petitioner joined the services of second respondent Society as Secretary on 01.12.1986. While he was working as Secretary in the respondent Society, on 25.07.1997, he was placed under suspension and thereafter, charge memo was issued making allegations of misappropriation that he had not discharged duties in a responsible manner. Enquiry was initiated against the appellant by appointing enquiry officer and after enquiry, the enquiry officer filed report holding that the charges



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framed against the appellant stood proved. After following the procedural formalities of issuing further show cause notice, for which explanation was submitted by the appellant, an order of dismissal from service was passed on 10.06.1998 against the appellant. In the interregnum period, the appellant raised an industrial dispute questioning the order of dismissal from service, which was ultimately dismissed by the Tribunal. Challenging the same, the appellant filed WP No.21014 of 2017 before this Court. The Writ Court, by order dated 05.01.2012 dismissed the writ petition with liberty to avail the statutory revisional remedy under Section 153 of the Tamil Nadu Cooperative Societies Act. Thereafter, the appellant filed revision petition under Section 153 before the first respondent. The revisional forum, by order dated 14.08.2012 confirmed the order of dismissal from service. Aggrieved by the same, the appellant filed the instant writ petition. The writ court, by order dated 08.10.2020 allowed the writ petition by holding as follows:

For the reasons aforesaid, this writ petition is allowed by setting aside the impugned order of dismissal passed by the 2nd respondent and remanding the matter back to the competent authority, viz., the Committee for passing



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appropriate orders on the enquiry report. It is further made clear that the matter is remitted back only on the question of jurisdiction and, therefore, the petitioner would not be entitled to claim any monetary benefits for the interregnum period. The Committee is directed to consider the enquiry report independently and pass appropriate orders in accordance with the by-laws of the society.

2.2. Challenging the said order, the appellant has filed the present intra court appeal.

3. Learned Senior Counsel appearing for the appellant submits that the second respondent does not have jurisdiction to pass order of dismissal from service against the appellant. It is also brought to the notice of this court that in the by-laws, it is clearly stated that Committee is the competent authority to impose punishment for the Secretary of the society. The learned Single Judge, accepting the said contention of the appellant/petitioner, set aside the order of dismissal from service and remitted back the matter to the Committee to consider and take appropriate decision. He further submits that the Society has not preferred any appeal against the order passed by the



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learned Single Judge.

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4. Learned Senior Counsel appearing for the appellant further submits that the learned Single Judge, in paragraph 6 of the order has made an observation that the appellant/petitioner would not be entitled to claim any monetary benefits for the interregnum period. For this, he emphasized that when the order of dismissal itself has been set aside, the said observation made by the writ court is unsustainable and therefore, he seeks to set aside that observation made by the learned Single Judge in the writ petition.

5. Learned Senior Counsel further submits that Committee has not passed any final order as directed by this Court due to the pendency of the writ appeal. In such circumstances, this Court may pass appropriate orders for setting aside the said observation made by the writ court insofar as the monetary benefits are concerned.



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6. Learned Additional Government Pleader appearing for the respondents would submit that if no such final order has been passed by the Committee then the issue will be considered by the Committee for granting of monetary benefits to the appellant at the time of passing the final orders.

7. In such circumstances, we are in agreement with the contention made by the learned Senior Counsel appearing for the appellant. Therefore, we are interfering with the order of the Writ Court insofar as the observation made that the appellant is not entitled to claim any monetary benefits for the interregnum period. To that extent, this Court is inclined to interfere with the order of the learned Single Judge and directs that the same shall be considered by the Committee at the time of passing of final orders. Insofar as the remaining portion of the order passed by the writ court is concerned, remains unaltered and the same is confirmed.



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8. With the above directions, the writ appeal stands partly allowed.

There shall be no order as to costs.

[D.K.K., J.] [K.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
mrn



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(mrn)

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