



W.P.Nos.22764 & 23733 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.22764 & 23733 of 2021
and W.M.P.Nos.23992, 24987 & 24988 of 2021

K.Periyasamy

... Petitioners in both W.P's.

/vs/

1. The Joint Registrar of Cooperative Societies,
Perambalur region,
Perambalur District.
2. The Domestic Enquiry Officer,
Office of the Domestic Enquiry Officer,
Ty. Spl. 109 V.Kalathur Primary Agricultural
Co-operative Credit Society,
Veppanthattai V.Kalathur Taluk,
Perambalur District.
3. The President,
Ty.Spl 109 V.Kalathur Primary Agricultural
Co-operative Credit Society,
Veppanthattai V.Kalathur Taluk,
Perambalur District.

... Respondents in both W.P's.



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Writ Petition in W.P.No.22764 of 2021 is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the entire records of the second respondent in his proceedings dated 21.07.2021 bearing No. Nil. being the enquiry report and the consequential proceedings of the third respondent dated 18.08.2021 vide proceeding No. NIL and quash the same and consequentially direct the third respondent to reinstate the petitioner into service with all monetary and other benefits within a time frame fixed by this court.

Writ Petition in W.P.No.23733 of 2021 is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the entire records of the third respondent in his proceedings dated 13.08.2019 bearing No. Nil and quash the same and consequentially direct the third respondent to reinstate this petitioner into service with all monetary and other benefits within a time frame fixed by this Court.

For Petitioner	...	Mr.G.Ilamurugu
(in both W.P's.)		
For Respondents	...	Mr.Yogesh Kannadasan
(in both W.P's.)		Special Govt. Pleader for R1 & R2
		Mr.T.Chezhiyan
		Additional Govt. Pleader for R3



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COMMON ORDER

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The petitioner who is working as a Secretary in Ty.Spl.109 V.Kalathur Primary Agricultural Co-operative Credit Society, Veppanthatai V.Kalathur Taluk has filed these two writ petitions; one challenging the show cause notice dated 18.08.2021 and enquiry report dated 21.07.2021 and another writ petition to quash the order of suspension dated 13.08.2019.

2. The primary grounds raised by the learned counsel for the petitioner is that the charge memo has been issued in violation of Rule 30(1) of Common Cadre Service Rules, 2019 which came into effect on 12.02.2019. According to the learned counsel for the petitioner the President of the Society has issued a charge memo without approval of the Common Cadre Authority which is illegal.

2.1. Reliance was placed on the judgment of the Division Bench of this Court in the case of ***K.Krishnan Vs. Additional Registrar of Co-***



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operative Societies, Kilpauk and others in W.A.No.1173 of 2022 dated

09.06.2014 wherein it is observed that the respondent has failed to obtain the approval from the competent authority in terms of the Government order and such show cause or charge memo issued lacks jurisdiction. But in the said case at the time when the proceedings were initiated, the Board was suspended and the Special Officer was put in-charge of the Society and hence it is held that the Special Officer is the competent authority to initiate disciplinary proceedings and appoint enquiry officer. In the case on hand, the Board is very much in place and as on today, the enquiry has been completed and enquiry report has also been filed. Only at this stage, the petitioner has filed these writ petitions challenging the very authority of the person who had issued a charge memo and appointed the enquiry officer.

3. Mr.T.Chezhiyan, the learned Additional Government Pleader submitted that in the meeting dated 01.09.2023 held in the presence of Common Cadre Authority, the minutes have been passed to obtain further explanation from the petitioner on the proved charges; a second show



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cause notice has also been served on the petitioner on 04.09.2023 and the petitioner has also given his reply on 21.09.2023; hence the petitioner had now filed these writ petitions as an after thought to frustrate the conclusion of the disciplinary proceedings.

4. As per Rule 29(5) of the Common Cadre Service Rules, 2019 the Board of the Primary Agricultural Co-operative Credit Society shall have the authority and power to impose certain punishments. Under Rule 31 of the Common Cadre Service Rules, 2019, the nature of the punishment and details of the appellate authority to whom the appeal would lie have been given. Now, the matter is in the hands of the Board of Primary Agricultural Cooperative Credit Society and only if the enquiry report is accepted and if any punishment is passed by the Board, the petitioner will get the opportunity to file an appeal. The petitioner who had subjected himself to the enquiry proceedings by participating in the same, had chosen to challenge the show cause and the order of suspension at a belated stage by invoking Rule 30(i) & 31(1) of the Common Cadre Service Rules, 2019.



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5. The learned counsel for the petitioner tried to make a distinction that had arisen in this case by pointing out that the show cause or charge memo has been issued only consequent to the enquiry report under Section 81 of the Cooperative Societies Act. Had it been the case where the President has *suo motu* given any show cause notice or charge memo without interference of any common cadre employee / authority, it can be presumed that the petitioner's case strictly falls under 31(1) of the Rules.

6. As stated already, the enquiry has already been completed and the petitioner has been given with a second show cause notice and he made his submission. This would show that there is no idea to impose any major punishment. Because the Board is competent to impose only the punishments of censure or withholding of increment without cumulative effect up to two years. Any other major penalties can be imposed only by the Common Cadre Authority and not by the Board. In the event of any punishment is imposed by the Board, the petitioner is entitled to file an appeal before the Common Cadre authority. As of now the writ petitions



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and the prayer sought in the writ petition appears to be a premature one.

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7. Since the petitioner has raised the point of lack of jurisdiction and the stage of the proceedings is penultimate to the imposition of punishment, I feel the petitioner can be given with his regular opportunity to file an appeal by leaving all other grounds raised by him open to be dealt by the appellate authority including jurisdiction.

8. Since the enquiry proceedings has almost reached an ultimatum, the respondent authorities shall pass an order in respect of the period of suspension. However it is needless to state that the petitioner is entitled to get subsistence allowance till conclusion of the enquiry proceedings. Any order towards accepting or rejecting the enquiry report or for imposing punishment if any, shall be passed as expeditiously as possible.

9. With the above observations, this Writ Petitions are disposed. No costs. Connected miscellaneous petitions are closed.

04.01.2024

Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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To:

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