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W.P.No.24468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.09.2024

Coram

The HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

**W.P.No.24468 of 2024**

**and**

**W.M.P. Nos.26767 and 26769 of 2024**

M.Prabishkumar

.. Petitioner

Vs

1.The Joint Registrar of Co-operative Societies,  
Thiruvannamalai Region,  
Thiruvannamalai,  
Thiruvannamalai District – 606 604.

2.The Deputy Registrar of Co-operative Societies,  
Thiruvannamalai Circle,  
Thiruvannamalai – 606 604.  
Thiruvannamalai District.

3.The Co-operative Sub Registrar/Administrator,  
H.H.572, Thachampattu Primary Agricultural  
Co-operative Credit Society,  
Thachampattu – 606 811.  
Thiruvannamalai Taluk & District.

..

Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records relating to the impugned order passed by the third respondent in his proceedings No.Nil dated 22.03.2024 and quash the



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same and consequently direct the respondents to reinstate the petitioner into service as Clerk in the third respondent society along with backwages, attendant benefits and other monetary benefits including arrears of subsistence allowance to the petitioner.

For Petitioner : Mr.C.Prakasam  
For Respondents : Mr.T.M.Rajangam,  
Government Advocate for R1 & R2  
Mr.C.Jeyaprakash,  
Government Advocate for R3

### **ORDER**

This writ petition has been filed challenging the impugned proceedings of the third respondent dated 22.03.2024 suspending the petitioner from service and for a consequential direction to the respondents to reinstate the petitioner into service as Clerk in the third respondent Society along with all attendant benefits.

2. The case of the petitioner is that he was working as Clerk in the third respondent Society from the year 1998 onwards. While so, disciplinary proceedings were initiated against the petitioner and he was suspended from service on 02.08.2022. Charge memo was issued against the petitioner on 04.09.2023 by framing three charges. The disciplinary proceedings ended up with a final order dated



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11.12.2023 passed by the Co-operative Sub Registrar/Administrator imposing a

punishment of stoppage of increment for one year without cumulative effect. In the meantime, the petitioner was also reinstated into service by the third respondent by order dated 24.11.2023.

3. The grievance of the petitioner is that once again disciplinary proceedings have been initiated against the petitioner and the petitioner was placed under suspension through the impugned proceedings dated 22.03.2024. Fresh charge memo was also issued to the petitioner on 09.08.2024. It is under these circumstances, the present writ petition has been filed before this Court challenging the present suspension order passed against the petitioner.

4. The third respondent has filed a counter affidavit. The third respondent has taken a stand that the earlier disciplinary proceedings initiated against the petitioner is on different set of facts which has already ended by imposing punishment against the petitioner. The present proceedings pertains to different set of facts and it involved



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both the petitioner and the Secretary of the Society. Considering the nature of charges that have been framed, the suspension order came to be issued against the petitioner. In view of the same, the respondents have justified the suspension order passed against the petitioner and have sought for the dismissal of this writ petition.

5. Heard Mr.C.Prakasam, learned counsel for the petitioner, Mr.T.M.Rajangam, learned Government Advocate for respondents 1 and 2 and Mr.C.Jeyaprakash, learned Government Advocate for the third respondent.

6. This Court carefully went through the earlier charge memo for which the petitioner faced disciplinary proceedings and suffered punishment. The present charge memo that has been issued against the petitioner pertains to different set of facts. The learned counsel for the petitioner submitted that the entire negligence is on the part of the Secretary and the petitioner who is only a Clerk has nothing to do with the recovery of loan amount. The learned counsel submitted that the petitioner is being unnecessarily subjected to repeated disciplinary proceedings for those actions with which the petitioner in



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his capacity as a Clerk has absolutely no say.

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7. Per contra, learned Government Advocate appearing on behalf of the third respondent apart from reiterating the grounds in the counter affidavit submitted that the proceedings itself has been initiated pursuant to an FIR that has been registered in Crime No.2 of 2020 pursuant to the enquiry report submitted under Section 81 of The Tamil Nadu Cooperative Societies Act, 1983. The learned Government Advocate submitted that the petitioner cannot point out the earlier disciplinary proceedings initiated against him and stall the present proceedings. That apart, it was submitted that the enquiry officer will be appointed within a week and the disciplinary proceedings itself will be concluded within the time frame fixed by this Court.

8. Taking into consideration the facts and circumstances of the case, it is seen that the petitioner is already facing disciplinary



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proceedings for completely different set of facts as could be seen from the charge memo dated 09.08.2024. Considering the fact that the petitioner is working as a Clerk in the third respondent Society, the third respondent has thought it fit to keep the petitioner under suspension pending the disciplinary proceedings. This Court does not find any ground to interfere with the order of suspension passed against the petitioner for the present. However, this Court is inclined to fix the outer limit for the completion of the disciplinary proceedings.

9. In the light of the above discussion, there shall be a direction to the third respondent to complete the disciplinary proceedings, after affording sufficient opportunity to the petitioner, within a period of three months from the date of receipt of a copy of this order. It is left open to the petitioner to raise all the grounds during the enquiry and any observations made in this order will not have any bearing on the disciplinary proceedings.

10. Learned counsel for the petitioner submitted that the petitioner has not been paid any subsistence allowance right from the



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earlier suspension order that was passed against him till date and as a result, the petitioner is virtually in penury. The respondents have thought it fit to keep the petitioner under continued suspension. The petitioner was already under suspension during the earlier disciplinary proceedings which ended with imposition of punishment against the petitioner. Now, the petitioner is facing new set of charges for which the petitioner is again kept under suspension. As a result, during the period from 02.08.2022 to 29.10.2022, the petitioner is entitled for subsistence allowance. Thereafter, from 22.03.2024 onwards, the petitioner continues to be under suspension till date. For this entire period, the petitioner is entitled for payment of subsistence allowance. The subsistence allowance shall be continued to be paid till completion of disciplinary proceedings. The arrears of subsistence allowance for the earlier period as well as for the period from 22.03.2024 till the end of this month i.e., September, 2024, shall be paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order. The subsistence allowance for the following months shall be paid on or before 7<sup>th</sup> of every month.



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11. In the result, this writ petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No  
Neutral Citation:Yes/No  
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To

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Thiruvannamalai District – 606 604.
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