



W.P.(MD)No.8727 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.8727 of 2024

and

W.M.P.(MD).No.7967 of 2024

X.Antony Raja

... Petitioner

Vs.

1. The Additional Chief Secretary,
Cooperation, Food and Consumer Protection Department,
Government of Tamil Nadu,
Secretariat,
Chennai.
2. The Deputy Secretary,
Tamil Nadu Public Service Commission,
Service Commission Road,
Chennai.
3. The Registrar of Cooperative Societies,
170 Evr Periyar High Road,
Kilpauk, Chennai 600 010.
4. The Regional Joint Registrar of Cooperative Societies,
Collectorate Complex,
Dindigul Region,
Dindigul.
5. The Deputy Registrar of Cooperatives,
Dindigul, Dindigul.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the first respondent in G.O.(Ms). No.48, Cooperation, Food and Consumer Protection (CL1) Department dated 06.03.2024 and quash the same and directing the respondent to permit the petitioner to continue as Cooperative Sub-Registrar under the third respondent and regularize his service with all attaining monetary benefits.

For Petitioner : Mr.M.Sricharan Rangarajan,
Senior Counsel
for Mr.G.Jeganathan

For R-1 : Mr.K.S.Selva Ganesan,
Additional Government Pleader

For R-2 : Mr.J.Anandha Kumar

ORDER

Heard Mr.M.Sricharan Rangarajan, learned Senior Counsel for Mr.C.Jeganathan, learned counsel appearing for the petitioner, Mr.K.S.Selvaganesan, learned Additional Government Pleader appearing for the first respondent and Mr.J.Anandha Kumar, learned counsel appearing for the second respondent.

2. This Writ Petition has been filed seeking to quash the impugned order issued by the first respondent in the Government Order in G.O.(Ms).No.48, Cooperation, Food and Consumer Protection (CL1) Department, dated



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06.03.2024 and further directing the respondent to permit the petitioner to continue as 'Cooperative Sub-Registrar' under the third respondent and to regularize the service of the petitioner with all monetary benefits.

3. The petitioner was appointed as 'Senior Inspector' through Tamil Nadu Public Service Commission under the third respondent on 19.12.2012 and thereafter, he was promoted as 'Co-operative Sub-Registrar' on 11.11.2016 at Vendasandur Block (CSR / PDS) and subsequently, during the year 2021, he was transferred from Vendasandur Block Field Office to Vadamadurai Block Co-operative Sub-Registrar / Field Office. While the petitioner was serving as 'Co-operative Sub Registrar (PDS)' at Vendasandur Block, an FIR was registered against him in Crime No.2 of 2019 for the offences punishable under Section 7 (a) of the Vigilance and Anti Corruption Act. After conducting enquiry, the case has been referred to Disciplinary Tribunal for taking departmental action against the petitioner and two others. The allegation against the petitioner is that unaccounted amount to the tune of Rs.95,280/- was seized by the vigilance team from the petitioner. Thereafter, the petitioner has given an explanation before the concerned authority. Not being satisfied with the explanation submitted by the petitioner, an Enquiry Officer was appointed and the charges were proved against him and two others on the ground of presumption and the



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disciplinary authority after going through the report submitted by the Enquiry

Officer, proceeded to pass an order of dismissal from service on 06.03.2024.

Challenging the same, the petitioner has filed this Writ Petition.

4. The matter in hand is no longer a *res-integra*. This Court has already dealt with a similar issue in *W.P.(MD).No.26540 of 2023*, wherein, it is held as follows:

10.A consolidated reading of the judgment of the Hon'ble Supreme Court makes it clear that whenever the Disciplinary Authority relies upon the report of TNPSC, a copy of the same has to be furnished. If the same is not furnished to the delinquent before imposition of punishment that would be in violation of principles of natural justice. In the present case, a perusal of the order impugned in the writ petition reveals that up to paragraph No.3, the proceedings that are prior to the second show cause notice have been recorded. Paragraph No.4 extracts the opinion offered by TNPSC. Paragraph No.5 clearly points out that the Government has examined the case in the light of the views expressed by TNPSC. Paragraph No. 7 reveals that along with the order of dismissal, a copy of the letter of TNPSC has been enclosed.



Therefore, it is clear that the Disciplinary Authority has relied upon the opinion of Public Service Commission, but they have not annexed the said opinion with the second show cause notice calling for explanation from the writ petitioner. Therefore, there is clear violation of principles of natural justice.

11. In view of the above said deliberations, this Court passes the following orders;

(i) The order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent herein.

(ii) The petitioner is at liberty to submit his further explanation to the first respondent herein in the light of the opinion expressed by TNPSC within a period of four weeks from the date of receipt of a copy of this order.

(iii) The first respondent is directed to pass orders after considering the explanation offered by the writ petitioner within a period of 12 weeks thereafter.

5. In the light of the decision cited supra, this Writ Petition is allowed and the impugned order passed by the first respondent in G.O.(Ms). No.48, Cooperation, Food and Consumer Protection (CL1) Department dated



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06.03.2024 is quashed and the matter is remitted back to the file of the first respondent herein. The petitioner is at liberty to submit his further explanation to the first respondent herein in the light of the opinion expressed by TNPSC within a period of four weeks from the date of receipt of a copy of this order and the first respondent is directed to pass orders after considering the explanation offered by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index:yes/no

Internet:yes/no

Ncc : yes/no

TSG

To

The Additional Chief Secretary,
Cooperation, Food and Consumer Protection Department,
Government of Tamil Nadu,
Secretariat,
Chennai.



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R.N.MANJULA, J.

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