



W.P.(MD).No.10881 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.10881 of 2024

and

W.M.P(MD) Nos.9691 and 9692 of 2024

Veilu Muthu

... Petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
Madavar Valagam,
Srivilliputhur,
Virudhunagar District.

2. The Managing Director/Administrator,
A.205/1524 Rajapalayam Co-operative
Urban Bank Limited,
247/96-A, Mudangiar Road,
Rajapalayam – 626 117,
Virudhunagar District.

3. The Domestic Enquiry Officer,
R.Sadhasivam,
A.205/1524 Rajapalayam Co-operative
Urban Bank Limited,
247/96-A, Mudangiar Road,
Rajapalayam – 626 117,
Virudhunagar District.

... Respondents



W.P.(MD).No.10881 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent relating to the order of termination dated 06.04.2024, quash the same and consequently direct the second respondent to issue the copy of the bank members attendance register of the general body meeting held on 24.07.2023 and thereafter permit the petitioner to submit the explanation of the petitioner and to pass final order after considering the explanation of the petitioner.

For Petitioner : Mr.V.O.S.Kalaiselvam
For R1 : Mr.D.Sasikumar
Additional Government Pleader
For R2 : Mr.D.Shanmugaraja Sethupathy

ORDER

The instant Writ Petition has been filed by a General Manager of Co-operative Bank, challenging the final order passed in the disciplinary proceedings, wherein the petitioner has been removed from service.

2. According to the learned counsel appearing for the writ petitioner, originally, a charge memo was issued to him on 27.02.2023 and the Board, by way of resolution, dated 24.07.2023 had decided to drop the said charges.



W.P.(MD).No.10881 of 2024

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However, the Managing Director had proceeded to issue a second charge memo on 10.10.2023 and appointed an Enquiry Officer. Though the petitioner has submitted his explanation, the explanation was not properly considered and ultimately, an enquiry report was submitted adverse to the writ petitioner.

3. A second show cause notice was issued to the writ petitioner on 20.03.2024 calling for explanation, why he should not be removed from service. The petitioner has sent a reply on 03.04.2024 requesting for the details of the members who have participated in the General Body Meeting on 24.07.2023. However, without being satisfied with the said reply, the impugned order has been passed on 06.04.2024 removing the petitioner from service.

4. According to the learned counsel appearing for the writ petitioner, once a charge was dropped by the proceedings of the General Body, thereafter, the Managing Director cannot issue a charge memo and proceed with the enquiry. When he has sought for the details of the members who had participated in the General Body, without furnishing the said particulars, he had proceeded to issue the impugned order of removal from service.



W.P.(MD).No.10881 of 2024

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5. Per contra, the learned counsel appearing for the respondents had pointed out that originally, what was issued on 27.02.2023 is only a show cause notice and not a charge memo. The Board does not have any powers to take disciplinary action or drop disciplinary action as against the writ petitioner. Therefore, not being satisfied with the explanation offered by the writ petitioner, a charge memo was issued by the Administrator on 10.10.2023. After conducting a detailed enquiry, the present impugned order of removal from service has been passed. He further contended that since the Board resolution has no role to play in the disciplinary proceedings, the request of the petitioner for the list of members who had participated in the Board Meeting, has no relevance whatsoever. He further contended that an effective alternative statutory remedy is available to the writ petitioner by way of invoking under Section 153 of Tamil Nadu Co-operative Societies Act. Without exhausting the said remedy, the present writ petition is not maintainable. Hence, he prayed for dismissal of the writ petition.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



W.P.(MD).No.10881 of 2024

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7. This Court is convinced with the fact that only a show cause notice was issued to the writ petitioner on 27.02.2023 and not being satisfied with the explanation offered by the writ petitioner, a charge memo has been issued on 10.10.2023 and therefore, the contention of the learned counsel appearing for the petitioner that a second charge memo was issued on same set of facts is not factually correct. As far as the contentions of the writ petitioner are concerned, since an effective alternative remedy is available to the writ petitioner by way of invoking either Section 153 of Tamil Nadu Co-operative Societies Act or Section 41 of the Tamil Nadu Shops and Establishment Act, this Court is of the considered opinion that the present Writ Petition is not maintainable.

8. In view of the above said facts, this Writ Petition stands disposed of. The petitioner is at liberty to approach the appropriate forum. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

20.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.10881 of 2024

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- To
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W.P.(MD).No.10881 of 2024

R.VIJAYAKUMAR,J.

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W.P(MD)No.10881 of 2024

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