



WP(MD). No.15672 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12.07.2024

CORAM

THE HON'BLE Ms.JUSTICE R.N.MANJULA

**WP(MD). No.15672 of 2024
and WMP(MD) No.13667 of 2024**

Murugeshwari K,

... Petitioner

Vs

1. The Joint Registrar Co-Operative Society,
Virudhunagar District..

2. The Deputy Registrar Co-Operative
Society,, Aruppukottai, Virudhunagar District..

3. The Co-Operative Sub Registrar,
of Managing Director,,
R2. Puliampatti Co-Operative Society,
Aruppukottai, Virudhunagar District..

... Respondents

PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents resulting in the 3rd respondent Impugned Suspension Order dated 01.02.2024 passed in his proceedings Nil and Quash the same and direct the respondents to reinstate the petitioner in service with all attendant and monetary benefits including backwages and further treat the period from 01.02.2024 till the actual date of his reinstatement in service as on duty.

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For Petitioner : Mr.V.R.Venkatesan
For R1 to R3 : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

By consent, the writ petition itself is taken up for final hearing at the stage of admission itself.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3.The writ petition has been filed challenging the impugned suspension order dated 01.02.2024 of the third respondent and to direct the respondents to reinstate the petitioner in service with all attendant and monetary benefits including backwages and further treat the period from 01.02.2024 till the actual date of her reinstatement in service as on duty.

4.The petitioner was appointed as Typist in the 3rd respondent society and subsequently she has been promoted and working as Cashier.



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While so, on the allegation of misappropriation of funds of the society, she was placed under suspension by virtue of the order impugned.

5. The learned counsel for the petitioner submitted that though the order of suspension is passed, no charges have been issued against the petitioner and the order of suspension is illegal in view of the fact that it has not been revised as per the dictum laid down by the Apex Court reported in **2015 (3) CTC 119 Ajaykumar Chowdry Vs Union of India and Others**. Since the petitioner has been kept under suspension for more than three months, without furnishing her any charges/charge sheet and no order of revising the suspension is passed, the respondents have to reinstate the petitioner.

6. The learned Government Advocate submitted that the co-delinquent had deposited the payment of surcharge amount and hence, the disciplinary proceedings is pending.

7. So far as the submission made by the learned counsel for the petitioner is concerned, it is claimed that the petitioner has made the



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entire payment through the co-delinquent and there is no liability on the part of the petitioner.

8. In ***Ajaykumar Chowdry Vs Union of India and Others***, it is held as under :

“8. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this would render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.

9. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged with some misdemeanour, indiscretion or offence. His torment is



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his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its culmination, that is, to determine his innocence or iniquity. Much too often this has now become an accompaniment to retirement. Indubitably, the sophist will nimbly counter that our Constitution does not explicitly guarantee either the right to a speedy trial even to the incarcerated, or assume the presumption of innocence to the accused. But we must remember that both these factors are legal ground norms, are inextricable tenets of Common Law Jurisprudence, antedating even the Magna Carta of 1215, which assures that — “We will sell to no man, we will not deny or defer to any man either justice or right.” In similar vein the Sixth Amendment to the Constitution of the United States of America guarantees that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. ”

It is seen that though the petitioner has been suspended as early as on 01.02.2024, even after four months, neither order of revision has been passed nor a charge sheet has been served on the petitioner.

9. In such case, it is obligatory on the part of the respondents to reconsider the case of the petitioner and pass a revised order. Since the



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respondents had not passed any order to that effect and charges have not been issued to the petitioner till now, I feel that the dictum laid down by the Apex Court is squarely applicable to the facts of the present case.

10. Accordingly, the writ petition is allowed and the impugned order of the third respondent dated 01.02.2024 is quashed and the respondents are directed to reinstate the petitioner in service. No costs. Consequently connected Miscellaneous Petition is closed.

12.07.2024

NCC : Yes/No

Index : Yes/No

RR

To

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R.N.MANJULA, J.

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