



W.A.(MD).No.2382 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD).No.2382 of 2024
and
C.M.P.(MD).Nos.16480 and 16481 of 2024

The Co-operative Sub-Registrar of
Managing Director,
R.2. Puliampatty Co-operative Society,
Aruppukkottai,
Virudhunagar District.

... Appellant/3rd Respondent

Vs.

1.K.Murugeshwari

... 1st Respondent/Writ Petitioner

2.The Joint Registrar Co-operative Societies,
Virudhunagar District.

... 2nd Respondent/1st Respondent

3.The Deputy Registrar Co-operative Society,
Aruppukkottai,
Virudhunagar District.

... 3rd Respondent/2nd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to allow the appeal, set aside the order passed in W.P.(MD).No.15672 of 2024 dated 12.07.2024.



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For Appellant : Mr.S.Seenivasagam
For R-1 : Mr.S.Kishore Kumar
For R-2 & R-3 : Mr.S.R.A.Ramachandran
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by M.S.RAMESH,J.)

The present Writ Appeal has been filed challenging the order passed by the learned Single Judge in W.P.(MD).No.15672 of 2024 dated 12.07.2024.

2. In contemplation of initiating disciplinary proceedings against the first respondent herein, the appellant Society had placed her under suspension through an order dated 01.02.2024. Thereafter, since no further action was taken for framing of charges, the first respondent herein had challenged the suspension order through a Writ Petition in W.P.(MD).No.15672 of 2024, predominantly on the ground of prolonged suspension.

3. The learned Single Judge of this Court had allowed the Writ Petition on 12.07.2024, holding that the prolonged suspension for three months without framing of charges and the failure to revise the order of suspension after expiry of three months, is opposed to the well laid down dictum of the Hon'ble



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Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India*

(UoI) and others reported in 2015 (3) CTC 119. This order of the Writ Court is under challenge in this appeal.

4. The learned counsel for the appellant attempted to distinguish the *Ajay Kumar Choudhary's* case, stating that since the Hon'ble Supreme Court had not interfered with the suspension order in that case, the dictum laid down therein, will not have any applicability to the present case and therefore, sought for allowing the appeal.

5. We do not endorse such a submission. The *ratio decidendi* in *Ajay Kumar Choudhary's* case is that in all cases of prolonged suspension, when the disciplinary authority fails to frame a charge memo, within a period of three months from the date of suspension, the suspension order requires to be reviewed and if the authority intends to continue the suspension against the concerned employee, he shall pass a speaking order for such continuation. However, in the subsequent decisions rendered by the Coordinate Benches of this Court, it has been distinguished that the dictum in *Ajay Kumar Choudhary's* case will not apply to cases, where the employee has been implicated in a criminal case, cases by DVAC, etc.



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6. In the instant case, the first respondent herein was not involved in any criminal case. It is also not in dispute that, even after expiry of three months from the date of suspension, the appellant had not framed charges for disciplinary action against her. It is only after filing of the Writ Petition that the appellant had chosen to frame charges on 30.09.2024. It is in this background that the learned Single Judge had relied upon *Ajay Kumar Choudhary's* case and had found the suspension order to be illegal. There is no infirmity in such findings.

7. The ground raised by the learned counsel for the appellant that the appeal requires to be allowed on the ground that the suspension order in *Ajay Kumar Choudhary's* case was not set aside, is unacceptable since it is the *ratio decidendi* therein, which would be relevant and not the *obiter dictum* therein.

8. Thus, we do not find any merits in this appeal. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
21.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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To

1.The Joint Registrar Co-operative Societies,
Virudhunagar District.

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



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