



W.P(MD)No.23674 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.23674 of 2022 and
WMP(MD) No.17756 of 2022

S.Chinnadurai

... Petitioner

Vs

1.The Joint Registrar,
Co-operative Societies,
Thoothukudi.

2.The Sub Registrar,
Co-operative Societies Tiruchendur Circle,
Tiruchendur,
Thoothukudi District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.717/2021 Pa.Tho, dated 01.08.2022 passed by the second respondent and quash the same as illegal.

For Petitioner
For Respondents

: Mr.J.David Ganesan
: Mr.K.Balasubramani
Special Government Pleader



W.P(MD)No.23674 of 2022

WEB COPY

ORDER

As against the order of punishment imposed on the petitioner, by the Sub Registrar, Co-operative Societies Tiruchendur Circle, Tiruchendur, dated 01.08.2022, the petitioner has approached this Court in the year 2022.

2.The petitioner was appointed as an Office Assistant in the Office of the Sub Registrar, Co-Operative Societies Tiruchendur Circle, Tiruchendur on 08.06.2018. On 27.06.2022, the second respondent herein has issued a show cause notice to the petitioner, under Section 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeals) Rules, 1955 in the proceedings in Na.Ka.No. 717/2021/Pa.Tho, dated 27.06.2022, calling for his explanation on certain allegations. According to the petitioner, he has submitted an explanation, dated 09.07.2022 to the second respondent, denying all the allegations stated in the show cause notice. However, without considering the same, the second respondent has passed an order, in



W.P(MD)No.23674 of 2022

WEB COPY

his proceedings in Na.Ka.No.717/2021, dated 01.08.2022, imposing a punishment of "withholding the increments for a period of three months with cumulative effect". Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submits that the explanation offered by the petitioner has not been considered by the second respondent and no opportunity was provided to this petitioner before passing the order of punishment. Therefore, the order impugned in this writ petition is liable to be set aside.

4.The learned Special Government Pleader by referring to the counter affidavit filed by the respondents submits that the petitioner was issued with a charge memo on 27.06.2022, under Section 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeals) Rules, 1955 on certain irregularities and dereliction of duty. The petitioner has submitted his explanation on 09.07.2022.



W.P(MD)No.23674 of 2022

The enquiry officer has found that the charges leveled as against the petitioner were proved and therefore, a punishment of "withholding the increments for a period of three months with cumulative effect" has been imposed on the petitioner, by his proceedings in Na.Ka.No. 717/2021, dated 01.08.2022. The learned Special Government Pleader further submits that as against the order of punishment, the petitioner is having an appeal remedy before the Joint Registrar, Co-operative Societies, Thoothukudi, under Rule 22 of the Tamil Nadu Civil Services (Disciplinary and Appeals) Rules, 1955. However, without invoking the appeal remedy, the petitioner has approached this Court.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner, who was working as an Office Assistant in the Co-Operative Societies Tiruchendur Circle has been dealt with charges, under Section 17(a) of the Tamil Nadu Civil



W.P(MD)No.23674 of 2022

WEB COPY

Services (Disciplinary and Appeals) Rules, 1955 and on proved charges, he was imposed with a punishment of "withholding the increments for a period of three months with cumulative effect". The petitioner claims that no opportunity was provided to him before passing the order of punishment. On the side of the respondents, it is stated that a show cause notice was issued to the petitioner on 27.06.2022 and he has also submitted his explanation on 09.07.2022. Since the charges were proved, the punishment was imposed on him. The fact remains that the proceedings was under Rule 17(a) of the Tamil Nadu Civil Services (Disciplinary and Appeals) Rules, 1955 and the petitioner is having an appeal remedy before the Joint Registrar, Co-operative Societies, Thoothukudi, under Rule 22 of the Tamil Nadu Civil Services (Disciplinary and Appeals) Rules, 1955. However, he has not invoked the available appeal remedy.

7.In view of the above, this writ petition is disposed of with a direction to the petitioner to exhaust the appeal remedy. The



W.P(MD)No.23674 of 2022

WEB COPY

petitioner shall file an appeal before the appellate authority within a period of four weeks from the date of receipt of a copy of this order and the Appellate Authority shall entertain the appeal, if any to be filed by the petitioner and dispose of the same, without insisting on limitation. No Costs. Consequently, connected Miscellaneous Petition is closed

12.11.2024

NCC:Yes/No

Index:Yes

vrn

To

1.The Joint Registrar,
Co-operative Societies,
Thoothukudi.

2.The Sub Registrar,
Co-operative Societies Tiruchendur Circle,
Tiruchendur,
Thoothukudi District.



WEB COPY



W.P(MD)No.23674 of 2022

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.23674 of 2022 and
WMP(MD) No.17756 of 2022

12.11.2024