



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.07.2025

Pronounced on : 06.10.2025

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**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR****W.P.No.27442 of 2004**

B.Gayathri

... Petitioner

Vs.

1. Pondicherry, State Co-operative Consumers' Federation Ltd.,
Rep. by its Managing Director, Pondicherry.

2. The Registrar of Co-operative Societies, Pondicherry.

3. Dhulasidoss

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his order Ref.No:PSCCF/Estt/A/722/87 dated 31.08.2004 and to quash the same and consequently to direct the first respondent to reinstate the petitioner into service with all other consequential benefits.

For Petitioner : Mr.V.Ajayakumar

For R1 : Mr.R.Sreedhar



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suspension by order dated 12.10.1994, and thereafter, a memorandum of charge dated 18.10.1994 was issued to the petitioner. It was thereafter, an Advocate was appointed as Enquiry Officer by order dated 25.03.1995, simultaneously a Presenting Officer was also appointed to present the case of the respondent Federation. It was thereafter, while the enquiry proceedings were pending, the Enquiry Officer was changed by appointing another Advocate in the place of the previous Enquiry Officer by order dated 17.02.1998. In the meanwhile, the petitioner was reinstated into service on 15.02.1997. It was thereafter by order dated 08.01.2003, yet another Enquiry Officer was appointed in the place of the second Enquiry Officer.

2.2. It was at that stage, the petitioner approached this court by filing W.P.No.38356 of 2002, challenging the charge memo dated 18.10.1994 on the ground of prolonged continuation of the said disciplinary proceedings. The said writ petition, though was refused to be entertained on the ground that the respondent Federation is a Co-operative Society governed by the Tamil Nadu Co-operative Societies Act, 1983, the respondent Federation was directed to conclude the disciplinary proceedings within a period of six



months after giving a fair and reasonable opportunity to the petitioner, vide order dated 10.10.2002.

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2.3. It was aggrieved by the said order dated 10.10.2002, the petitioner filed W.A.No.3948 of 2002 and the said writ appeal came to be disposed of by an order dated 18.02.2003, dismissing the same but making it clear that the Disciplinary Authority should adhere to the timeline fixed by the learned Single Judge and further ordered that in case of failure of the Disciplinary Authority to conclude the disciplinary proceedings within the time stipulated by the learned Single Judge, the charge memo will stand automatically quashed. It was at that stage, the respondent Federation filed W.A.M.P.No.3396 of 2003 in W.A.No.3948 of 2002 to grant two more months' time to conclude the enquiry against the petitioner. It was at that stage, with a view to give a quietus to the long pending dispute, pursuant to a suggestion made by the learned Division Bench of this court, the matter was settled once for all before this court permitting the respondent Federation to inflict a punishment of “stoppage of one increment without cumulative effect” on the petitioner. Accordingly, the Respondent No.1 issued Office Order dated 29.10.2003, inflicting the punishment of



“stoppage of one increment without cumulative effect” on the petitioner, while treating the period of suspension i.e., from 01.10.1994 to 14.02.1997 as duty for all purposes and thereby closing the disciplinary proceedings that were initiated against the petitioner as early as in the year 1994.

2.4. It was thereafter, the petitioner submitted various representations dated 20.10.2003, 02.03.2004 and 02.08.2004, requesting for payment of the arrears that were due and payable to her for the period of suspension in terms of Office Order dated 29.10.2003, besides requesting for release of the increment due to the petitioner as on 01.01.2004. While things stood thus, the impugned order came to be issued by the Respondent No.1 terminating the services of the petitioner invoking Clause 6 of the order of appointment dated 14.10.1987. The said Clause 6 of the appointment order reads as under:-

“6. If Miss V.Gayathri, desires to resign her job after a period of 2 years or if the management of the Pondicherry State Coop. Consumers Federation desires to relieve her from the services of the Federation, 3 months notice shall be given on either side or alternatively 3 months salary shall be paid in lieu of the notice.”

2.5. From the perusal of the impugned order dated 31.08.2004, it is



noticed that the salary of the petitioner is being paid from the subsidy granted by the Government of Pondicherry for consumer education programmes for all the years till 2003 and the said grant of subsidy was discontinued with effect from 01.04.2003 and therefore, the post of 'Consumer Education Officer' held by the petitioner was found to be surplus and therefore, the services of the petitioner were terminated by order dated 31.08.2004 and she was also paid three months' notice pay of Rs.35,490/-.

3. In the counter-affidavit filed by the respondents also, the contents of the impugned order are once again reiterated.

4. Heard Mr.V.Ajayakumar, learned counsel for the petitioner, Mr.R.Sreedhar, learned counsel for the Respondent No.1 and Ms.Sharada Vivek, learned Additional Government Pleader (Pondicherry) appearing for the Respondent No.2.

5. The learned counsel for the petitioner contended that the petitioner was appointed on regular basis as a 'permanent employee' of the respondent



Federation and at no point of time, her services were treated as 'temporary services' and right from the beginning, the petitioner was granted regular scale of pay and she was also granted increments every year till the year 2003 and also drawn the attention of this court to various correspondences which disclose that the petitioner was treated as a 'regular employee' of the respondent Federation. He also further contended that Clause 6 of the appointment order cannot be taken advantage by the respondents to terminate the services of the petitioner after availing the services of the petitioner for more than 17 years. He also further contended that the respondents, having initiated the disciplinary proceedings against the petitioner on trivial grounds, and continued the same for about two decades and failed to conclude the same inspite of the orders passed by this court and having failed to put an end to the services of the petitioner under the guise of the said disciplinary proceedings due to intervention of this court, have now issued the impugned order dated 31.08.2004, *malafide*, terminating the services of the petitioner. He also further submitted that the respondents are not entitled to terminate the services of the petitioner by simply paying three months notice pay, as the post held by the petitioner is 'permanent' in nature and he also further contended that there is nothing on



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record to show that the Government of Pondicherry has stopped the grant of subsidy for the consumer education, as contended by the respondents in the impugned order.

6. On the other hand, Ms.Sharada Vivek, learned Additional Government Pleader (Pondicherry) contended that the grant of subsidy released by the Government of Pondicherry for consumer education is only the source for payment of salary to the petitioner, and the same was stopped by the Government after the year 2003 and with good intention that the Government would release the same, at later point of time, the petitioner was continued in service till 31.08.2004 and having failed to receive any amounts, the respondent Federation was left with no other option except to terminate the services of the petitioner. Mr.R.Sreedhar, learned counsel for the Respondent No.1 reiterated the contents of the counter-affidavit filed by the Respondent No.1 while adopting the arguments of the learned Additional Government Pleader (Pondicherry).

7. This court has carefully considered the submissions made on either side and also perused the entire material on record.



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8. From the material on record, it is abundantly clear that the petitioner is not a temporary employee working in the respondent Federation. As seen from the letter of the Managing Director of the respondent Federation dated 23.06.1992, it is evident that the name of the petitioner was referred to in Annexure-I of the said letter by showing her as a 'regular staff' of the respondent Federation. A copy of the Service Register of the petitioner is also produced before this court. A perusal of the said Service Register also would disclose that the petitioner was treated as a 'regular employee' from the beginning and she has been granted regular increments from the year 1988 onwards till the year 2003. Though it is the specific contention of the respondents that the salary of the petitioner is being paid from out of the grant of subsidy released by the Government of Pondicherry towards consumer education and the same was stopped by the Government from the year 2003, no material has been placed before this court to substantiate the same.

9. No doubt, some utilization certificates were produced utilizing the grant of subsidy released by the Government of Pondicherry for various



purposes which also include the payment of salary to the petitioner. But that does not mean that the petitioner was appointed against a scheme for any time bound period or subject to release of grant by the Government of Pondicherry.

10. It is not even the case of the respondent Federation that the petitioner was appointed under any specific scheme or for any tenure. But the perusal of the appointment order and subsequent entrustment of duties etc., to the petitioner would indicate that the nature of appointment of the petitioner is of 'permanent' in nature. Whatever may be the nature of appointment, the petitioner was continued in service for about 17 years and her pay was revised from time to time on a regular basis along with other regular employees. In the light of the same, this court does not see any reason to discriminate the petitioner and to treat her as an employee of 'temporary' in nature. Once the petitioner was appointed on a regular basis in a post existing in the respondent Federation, which is admittedly a State owned federation, the question of terminating the services of the petitioner in violation of Article 311 of the Constitution cannot be permitted. If the services of the petitioner are to be terminated in the manner in which it was



done, the same would offend Articles 21 and 311 of the Constitution of India. Clause 6 of the original appointment order cannot be invoked by the respondents after a lapse of about 17 years to terminate the services of the petitioner under the said Clause.

11. Be that as it may, from the series of events as noted herein above, it is evident that all the attempts that were made by the respondents to take disciplinary action against the petitioner failed due to intervention of a learned Division Bench of this court and the same were concluded by passing an order dated 29.10.2003 inflicting minor penalty. It was thereafter, when the petitioner started making a claim for payment of various amounts due to her in terms of the said Office Order dated 29.10.2003, the respondents, with a view to escape their liability to pay the amounts, as is being claimed by the petitioner, appears to have *malafide* invoked Clause 6 of the appointment order and issued the impugned order dated 31.08.2004.

12. In the light of this above, this court is thoroughly convinced that the impugned order is the result of *malafide* exercise of power by the



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Respondent No.1 on having failed in their previous attempts to take disciplinary action against the petitioner and with a view to take vengeance against the petitioner. In the circumstances, the impugned order bearing Ref.No.PSCCF/ Estt/A/722/87, dated 31.08.2004, cannot be sustained and the same is hereby quashed. Consequently, the respondents are directed to treat the petitioner as continued in service till she attained the age of superannuation and pay all the consequential benefits to the petitioner, as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this order.

13. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

06.10.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To



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1. The Managing Director, Pondicherry State
Co-operative Consumers' Federation Ltd., Pondicherry.
2. The Registrar of Co-operative Societies, Pondicherry.

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MUMMINENI SUDHEER KUMAR, J.

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Pre-Delivery Order made in
W.P.No.27442 of 2004

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