



W.P.No.12528 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2025

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.12528 of 2017

S.Kanagasabapathy

S/o.K.Sundaramoorthy

... Petitioner

vs.

1. The Secretary to Government
Co-operation, Food and Consumer Protection
Department
Government of Tamil Nadu
Fort St.George, Chennai-600 009.
2. The Joint Registrar of Cooperative Societies
Kancheepuram Region
Kancheepuram – 631 501.
3. The Deputy Registrar / Managing Director
The Big Kancheepuram Co.op Town Bank Limited
No.90-91, Annai Indira Salai
Kancheepuram – 631 501.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order bearing No.Na.Ka.1326/2016/Sapa dated 15.09.2016 passed by the respondent and quash the same and consequently, direct the third respondent to treat the period of absence from 07.10.2005 to 07.02.2011 as period on duty and pay salary and other benefits for the said period to the petitioner.

For Petitioner : Mr.R.Rajaram
For Respondents : Mr.S.Ravikumar
Special Government Pleader
for R1 & R2
Mr.L.P.Shanmugasundaram, for R3

ORDER

The captioned writ petition has been filed seeking the issuance of a writ of Certiorarified Mandamus to quash the order dated 15.09.2016 passed by the first respondent in Na.Ka.No.1326/2016/Sapa, and consequently to direct the third respondent to treat the period of absence from 07.10.2005 to

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07.02.2011 as duty period and to pay salary and all other attendant benefits to the petitioner for the said period.

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2. The petitioner, while serving as General Manager in the third respondent Cooperative Bank, was issued with a charge memo alleging that he had failed to take steps to recover certain loans, resulting in monetary loss to the Bank. The Enquiry Officer submitted a report holding that the charges against the petitioner were proved, which culminated in an order of dismissal from service. Aggrieved by the same, the petitioner preferred an appeal under Section 152 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as “the said Act”), which came to be dismissed. Thereafter, the petitioner filed a revision under Section 153 of the said Act. The Revisional Authority, by order dated 31.01.2011, set aside the order of dismissal and modified the punishment to withholding of increments for two years with cumulative effect. The said order attained finality and the



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petitioner was reinstated into service.

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3. Subsequently, the petitioner made a claim before the third respondent Bank seeking payment of wages for the period of non-employment from 07.10.2005 to 07.02.2011. As the said claim was not considered, he approached the first respondent seeking appropriate directions. The first respondent, however, rejected the claim by order dated 15.09.2016. Aggrieved by the same, the present writ petition has been filed.

4. Mr. R. Rajaram, learned counsel for the petitioner, submitted that once the order of dismissal is set aside and the petitioner is reinstated into service, he is legally entitled to backwages for the period of non-employment. Denial of such backwages, according to him, is arbitrary and discriminatory. In support of his contention, the learned counsel relied on the judgment of the Hon'ble Supreme Court in *Nandkishore Shravan Ahirrao v. Kosan Industries (P) Ltd., Civil Appeal Nos. 201-202 of 2020*



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dated 10.01.2020.

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5. Per contra, Mr. L. P. Shanmugasundaram, learned counsel for the third respondent, submitted that the Revisional Authority had not issued any specific direction for payment of backwages and therefore, the petitioner is not entitled to wages for the said period. He further submitted that the petitioner has already retired from service on attaining the age of superannuation and has been paid terminal benefits to the tune of Rs.14,80,812/-. Hence, the present writ petition, according to him, is devoid of merits and liable to be dismissed.

6. The submissions of the learned counsel for the parties and the materials placed on record have been carefully considered.

7. The order of dismissal was set aside by the Revisional Authority in exercise of powers under Section 153 of the said Act, and the petitioner was reinstated into service. Thereafter, he retired on attaining the age of



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superannuation. Though the Revisional Authority did not specifically direct payment of wages for the period of non-employment, once reinstatement is ordered, continuity of service follows as a matter of law, and wages for the relevant period cannot be denied unless specifically withheld on legally sustainable grounds.

8. The Hon'ble Supreme Court in *Nandkishore Shravan Ahirrao* (supra) has held that once reinstatement is ordered, continuity of service follows as a matter of law. In the said case, the employee was awarded 25% backwages, and the Supreme Court held that the denial of continuity of service was erroneous.

9. In the present case, admittedly, the petitioner remained out of service from 07.10.2005 to 07.02.2011. Having regard to the overall facts and circumstances of the case, and considering the financial constraints expressed by the third respondent Society, this Court is of the view that



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grant of 30% backwages for the said period would sufficiently balance the equities between the parties and meet the ends of justice.

10. In the light of the aforesaid discussion, the petitioner is held entitled to 30% backwages for the period of non-employment from 07.10.2005 to 07.02.2011. Accordingly, the writ petition is allowed in part. The impugned order dated 15.09.2016 passed by the first respondent is set aside. The third respondent is directed to pay 30% of the wages for the aforesaid non-employment period to the petitioner within a period of two months from the date of uploading of this order on the official website of this Court. In the event of default, the respondents shall pay interest at the rate of 6% per annum on the said amount from the date of default till actual payment . There shall be no order as to costs.

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To

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