



WP(MD). No.23612 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 08.01.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.23612 of 2022
and WMP(MD)Nos.17686 of 2022,
20463 of 2022 and 26761 of 2023

RP1, Ramanathapuram District
Village Administrative Officer and
Village Assistant Co-operative Thrifty
and Credit Society,
Rep. by its President,
No.26/2/421-12(11), Vasanthapuram,
Opposite to LIC,
Paramakudi – 623 707,
Ramanathapuram District.

... Petitioner

versus

1. The Joint Registrar of Co-operative
Societies,
O/o. Joint Registrar of Co-operative
Societies,
Ramanathapuram District.

2. S.Jeyakumar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of a Writ of Certiorari, to call for the records in
the impugned order in Na.Ka.No.3543/2021/sa.pa dated 16.09.2022 on
the file of the 1st respondent and quash the same as illegal.



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For Petitioner : Mr.S.Kumar
For R1 : Mr.P.T.Thiraviam,
Government Advocate
For R2 : Mr.Shankar Ganesh

ORDER

The petitioner Society has filed this writ petition as against the order dated 16.09.2022, in and by which, the first respondent/the Joint Registrar of Co-operative Societies, allowed the review petition and set aside the order of termination issued against the 2nd respondent dated 13.02.2017 and also directed the petitioner Society to reinstate the 2nd respondent into service.

2. The 2nd respondent was appointed as Assistant in the petitioner Society on 02.05.1998 and his service was also regularised on 04.05.2007. However, he was absent from duty from 05.07.2013. Therefore, a show cause notice was issued to the 2nd respondent on 23.07.2013. He has submitted his explanation to the show cause notice on 07.08.2013 and also applied for leave from 01.07.2013 to 30.09.2013 and extended the leave upto 10.11.2013. Thereafter, the 2nd respondent appears to have joined duty on 11.11.2013 and worked upto 14.11.2013 and again, he was absent from 16.11.2013 without any intimation or



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leave. Therefore, a charge memo dated 05.03.2015 was issued to the 2nd respondent, however, he refused to receive the same. Thereafter, the petitioner Society has appointed an Enquiry Officer to enquire into the charges and fixed the enquiry on 04.01.2017. The same was intimated to the second respondent through post, but, it was returned as refused. Thereafter, the Enquiry Officer, who conducted an enquiry, has submitted his report on 07.01.2017.

3. Based on the enquiry report, the petitioner has issued a second show cause notice on the proposed punishment, which was also returned as unclaimed on 13.01.2017. Thereafter, another notice was issued on 30.01.2017 to the second respondent calling for personal enquiry on 06.02.2017, but, the second respondent refused to receive the notice and did not participate in the enquiry. Therefore, the petitioner Society has terminated the second respondent from service on 13.02.2017 and affixed the same in the house of the 2nd respondent with the help of the Village Administrative Officer. After two years, the second respondent sent a representation to the petitioner Society seeking permission to join duty. The petitioner Society has rejected the same on 07.08.2019 that he has



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already been terminated from service by order dated 13.02.2017. As against the order of termination, the second respondent has filed a revision petition before the first respondent and the same was rejected by the first respondent on 25.06.2020. Thereafter, a review petition was filed under Section 154 of the Tamil Nadu Co-operative Societies Act, 1988. The first respondent, by order dated 16.09.2022, allowed the review petition and set aside the order of termination dated 13.02.2017 that the second respondent was terminated from service without issuing any charge memo and without conducting an enquiry. Challenging the same, the petitioner Society has filed this writ petition.

4. The learned counsel appearing for the petitioner submits that the second respondent was unauthorizedly absent from 05.07.2013, for which, a show cause notice was issued to him and later, his unauthorized absent period was treated as earned leave from 01.07.2013 to 30.09.2013 and he was also provided earned leave upto 10.11.2013. Thereafter, the second respondent joined duty on 11.11.2013 and worked upto 14.11.2013 and thereafter, he was absent from 16.11.2013 without any intimation. Therefore, a charge memo was issued to the second



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respondent on 14.11.2016, i.e. after two years, but, the second respondent has refused to receive it. Only thereafter, an enquiry was conducted and based on the enquiry report, the second respondent was terminated from service. All the efforts taken by the petitioner Society has ended in vain. The second respondent has refused to receive the charge memo dated 14.12.2016 and the subsequent notice dated 30.01.2017 and did not challenge the order of termination for two years. However, the first respondent, without considering these aspects, has erroneously taken a decision to reinstate the second respondent into service, which demoralize other employees and the discipline in the institution.

5. The learned Government Advocate submits that the first respondent is having the powers under Section 154 of the Cooperative Societies Act to review the order of punishment. Accordingly, the first respondent, by exercising his power, reviewed the order of punishment issued against the second respondent, considering the fact that the enquiry was conducted behind his back and without issuing a charge memo.



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6. The learned counsel for the second respondent submits that the second respondent was made as a victim due to personal vendetta between the Secretary of the Society and the second respondent. By considering the said fact, the first respondent set aside the order of termination and directed the petitioner Society to reinstate the second respondent into service. He further submits that the second respondent undertakes that he will continue to work regularly and sincerely.

7. This Court considered the rival submissions made.

8. The petitioner Society claims that the second respondent was unauthorisedly absent in the year 2013, for which a show cause notice was issued to him on 23.07.2013. Subsequently, the period of absence was treated as Earned Leave from 01.07.2013 to 10.11.2013. Thereafter, the second respondent again joined duty on 11.11.2013 and worked upto 14.11.2013 and again, he was absent from 16.11.2013. Therefore, a charge memo was issued to the second respondent on 14.12.2016, but, the same was returned as refused. Further, there was a communication about the appointment of Enquiry Officer in the month of January 2017



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and the same was also returned as refused. The second show cause notice on the proposed punishment has also been issued to the second respondent, but, the same was returned as refused. There is no explanation from the second respondent for his unauthorized absence. In these circumstances, the petitioner Society is having no other option than to terminate the second respondent from service. But, the first respondent, without considering all these aspects, passed the impugned order in a mechanical manner. The petitioner Society can extract work from its employees only if the discipline is maintained in the office. This conduct of the second respondent cannot be ratified by the revisional authority in reviewing the order of termination.

9. Accordingly, this writ petition is allowed and the order dated 16.09.2022 passed by the first respondent is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.



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B.PUGALENDHI, J.

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To

The Joint Registrar of Co-operative Societies,
O/o. Joint Registrar of Co-operative Societies,
Ramanathapuram District.

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