



W.P.(MD).No.23881 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).No.23881 of 2017
and
WVMP(MD).No.20014 of 2017**

A.Palanisamy

....Petitioner

Vs

1.The Joint Registrar of Co-operative Society
Office of the Joint Registrar of Co-operative Society
Karur
Karur District

2.The President
MM69 L.N.Samuthram The Primary Agricultural
Co-operative Bank
L.N.Samuthram Post
Vadivel Nagar
Karur 639 002

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings in Revision Petition No.1/2011 Sa.Pa dated 23.12.2014 and quash the same as illegal insofar as it relates to the modification of the punishment is concerned.



W.P(MD).No.23881 of 2017

For Petitioner : Mr.H.Mohamed Imran
For M/s.Ajmal Associates

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

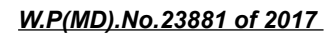
ORDER

The salesman working in the Fair Price Shop run by the second respondent was dismissed from service on 07.07.2009.

2.The petitioner has challenged the order of dismissal by filing a revision under Section 153 of Tamil Nadu Co-operative Societies Act before the first respondent.

3. The first respondent herein has partly allowed the revision petition, directing reinstatement of the writ petitioner. However, the backwages as well as continuity of service for the period between 07.07.2009 to 25.02.2015 were rejected. Challenging the disallowed portion, the present writ petition has been filed by the employee.

4.According to the learned counsel for the writ petitioner, when the order of dismissal from service is set aside and the dismissal order which was passed was illegal, continuity of service is automatic. He had further submitted that he cannot be denied the wages for the period of non-employment. He also relied upon a judgment of the Hon'ble Supreme Court reported in **(2012) 5 SCC 242 (Vijay Singh Vs. State of Uttar Pradesh**



5. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the writ petitioner had not worked for the period between 07.07.2009 to 25.02.2015. In such circumstances, the denial of backwages is based upon the discretion of the appellate authority. As a normal Rule, the backwages is being denied for the period of non-employment. He had further submitted that the petitioner was reinstated pursuant to the order of the appellate authority and he had attained superannuation on 30.06.2018 and in such circumstances, the order of the appellate authority may not be disturbed.

7. The appellate authority namely the first respondent after elaborate discussion, has found that the order of dismissal from service is not legally sustainable. In such circumstances, if the writ petitioner is not reinstated with continuity of service, it would be amount to fresh appointment. Rejecting the prayer for continuity of service would amount to imposition of a punishment which is not prescribed either in the Service Rules or in the Byelaws of the Co-operative Society. The judgement of the Hon'ble Supreme Court reported in **(2012) 5 SCC 242 (Vijay Singh Vs. State of Uttar Pradesh and others)**



W.P(MD).No.23881 of 2017

cited by the learned counsel for the petitioner is clearly applicable to the facts of this case.

8.However, as far as the payment of backwages for the period of non-employment is concerned, it is within the complete discretion of the authority concerned, depending upon the facts and circumstances of the case. In the present case, the writ petitioner was not employed for the period between 07.07.2009 to 25.02.2015 and in such circumstances, this Court does not find any reason to interfere in the order of the first respondent wherein he had rejected backwages.

9.In view of the above said deliberations, this Court passes the following orders:

a)The order of the appellate authority/first respondent rejecting the request for continuity of service is hereby set aside.

b)The period of non-employment between 07.07.2009 to 25.02.2015 shall be treated as duty period for all purposes except backwages.

10.Accordingly, this writ petition is partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petition is closed.

24.10.2025



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Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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