

W.A.(MD)No.522 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A(MD)No.522 of 2021

and

C.M.P(MD)No.2300 of 2021

R.Gnanasekaran

... Appellant /
Petitioner

Vs.

1.The Additional Registrar,
Revisional Authority
under Section 153 of
Cooperative Societies Act,
Additional Registrar
(Sales Planning and Development),
Office of the Registrar of Societies,
Kilpauk,
Chennai – 10.

2.The Special Officer,
M.D.Special 71,
Aranmanaipudur,
Primary Agricultural Cooperative Bank,
Aranmanaipudur,
Theni District.

... Respondents /
Respondents



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 06.01.2021 passed by the learned Judge in W.P(MD)No. 4758 of 2011 and allow the writ petition in full.

For Appellant : Mr.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.S.Shaji Bino
Special Government Pleader
for R.1

Mr.V.O.S.Kalaiselvam
for R.2

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The unsuccessful writ petitioner is before us.

2.The writ petitioner, who is the appellant herein, was appointed as an appraiser in the respondent Co-operative Bank on 10.12.1997. He was dismissed from service vide order dated 05.12.2005. Questioning the same, he filed W.P(MD)No.11660 of 2005. The said writ petition was dismissed vide order dated 06.07.2007, granting him liberty to avail alternative remedy. Instead of filing a revision before the authority under Section 153 of the Tamil Nadu Co-operative Societies Act, the appellant



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chose to file CMA before the Principal District Judge, Theni.

Subsequently, the said appeal was withdrawn as not pressed on 13.03.2008. Thereafter, revision was filed before the authority under Section 153 of the Act. The revision was dismissed as belated. Challenging the same, the appellant filed an M.P in W.P(MD)No.11660 of 2005 seeking extension of time. The said MP was dismissed. Challenging the same, the appellant filed W.A(MD)No.271 of 2010. Before the Hon'ble Division Bench the appellant gave an undertaking that he would not claim any back wages from the date of dismissal. In view of the undertaking given by the appellant, the writ appeal was disposed of on 22.04.2010 in the following terms:

“6.Having regard to the fact that nearly five years have lapsed after the order of removal, dated 05.12.2005, we are of the view that by directing the revisional authority to entertain and dispose of the revision expeditiously, the rights of the parties can be sub-served. With that view, in the interest of justice, we set aside the order of the Registrar (Co-operative Societies), dated 10.08.2008 in Na.Ka.No.71103 of 2008 Sa.Pa.1 and direct the Registrar (Co-operative Societies) to entertain the appellant's revision questioning the correctness of the order of removal of the respondent, dated 05.12.2005, and dispose of the same on merits and in accordance with

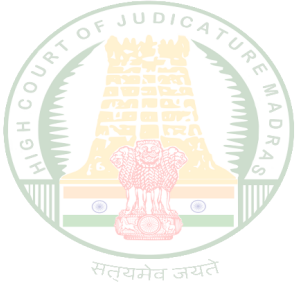


law, after giving due opportunity to the appellant as well as the respondent. While passing final orders, in the event of the Registrar (Co-operative Societies) deciding to interfere with the order of removal dated 05.12.2005, he shall apply the undertaking extended by the petitioner in paragraph 5 of his affidavit dated 21.04.2010, extracted above, and pass suitable orders. The Registrar (Co-operative Societies) shall take all endeavour to pass final orders expeditiously, preferably within eight weeks from the date of filing of revision by the appellant. The appellant is directed to file the revision, along with a copy of this order, within two weeks from the date of receipt of copy of this order.”

Thereafter, the revisional authority entertained revision and allowed the same vide order dated 31.08.2010, in the following terms:

“ஆணை:—

மேலே கண்ட தீர்வுகளின்படி இச்சீராய்வு மனு அனுமதிக்கப்பட்டு, மனுதாரரை நிரந்தரப் பணி நீக்கம் செய்து எதிர் மனுதாரர் வழங்கிய அவருடைய 05.12.2005ந் தேதிய ஆணை நீக்கரவு செய்யப்பட்டு மனுதாரருக்கு உடனடியாக சங்கத்தில் நகை மதிப்பாளராக பணியமர்த்த ஆணை வழங்கப்படவேண்டும் என்றும் ஆணையிடப்படுகிறது. சென்னை உயர்நீதிமன்ற மதுரைக் கிளை மேல்முறையீடு (MD) எண். 271/2010 நாள் 22.04.2010 அன்று வழங்கிய தீர்ப்பின் அடிப்படையில் மனுதாரர் நிரந்தரப் பணி நீக்கம் செய்யப்பட்ட நாளிலிருந்து இந்த ஆணைப்படி மீண்டும் பணியமர்த்தம் செய்யப்பட்டு பணியில் சேரும் நாள் வரையிலான இடைப்பட்ட



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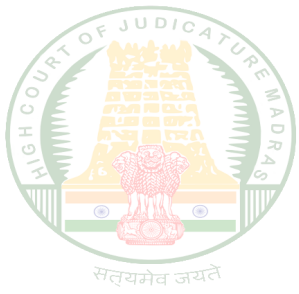


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காலத்தை சம்பளமில்லா விடுப்புக் காலமாக கணக்கில் எடுத்துக் கொள்ள வேண்டும் என்றும் இந்த இடைப்பட்ட காலத்துக்கு மனுதாரருக்கு யாதொரு நிதிப்பலனும் கோரக்கூடாது என்றும் ஆணையிடப்படுகிறது.”

3.Termination order was set aside and the appellant was ordered to be reinstated in service. However, back wages were denied. Aggrieved by the denial of back wages, the appellant filed W.P(MD)No.4758 of 2011. The said writ petition was dismissed by the learned single Judge on 06.01.2021 by applying the principle of “No work no pay”. Aggrieved by the same, this writ appeal has been filed.

4.The learned counsel appearing for the appellant strongly contended that the undertaking given by the appellant was only to the extent of giving up of back wages for the period commencing from the date of dismissal of the writ petition till the date of reinstatement. He would argue that the appellant is entitled to back wages for the period from the date of termination till the date of dismissal of the writ petition on 06.07.2007. According to him, the learned single Judge had not properly construed the terms of his undertaking. He prayed for grant of relief.



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5.Per contra, the learned counsel appearing for the Bank submitted that the impugned order passed by the learned single Judge deserves to be sustained.

6.We carefully considered the rival contentions and went through the materials on record.

7.We do endorse the stand of the learned counsel for the appellant that the appellant had given up his claim for back wages only for the period from 06.07.2007 till the date of reinstatement and that he had not given up his claim for the preceding period. However, two aspects operate against the appellant's claim.

8.Firstly, when the appellant file W.P(MD)No.11660 of 2005 questioning the termination order dated 05.12.2005, the said writ petition was dismissed nearly two years later, on 06.07.2007, as not maintainable. The appellant ought not to have filed the writ petition at all in the first instance. The appellant ought not to have invoked the writ jurisdiction in the first instance and should have straightaway filed a revision before the competent authority under Section 153 of the Act. For the fault

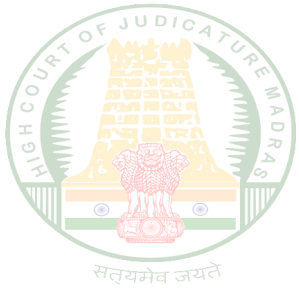


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committed by the appellant in pursuing a remedy that was intrinsically not maintainable, the Management cannot be fastened with liability.

9.Secondly, as rightly pointed out by the learned Standing Counsel for the bank, the appellant had nowhere pleaded in the affidavit filed in support of the writ petition that he was not gainfully employed elsewhere. It is a well settled principle in Labour jurisprudence that back wages can be denied if the delinquent employee was gainfully employed during the relevant period. Whether the employee was gainfully employed elsewhere or not is a fact within the exclusive knowledge of the delinquent. We carefully went through the affidavit filed in support of the writ petition. The appellant has nowhere pleaded that he was not gainfully employed elsewhere.

10.Even though we do not subscribe to the reason assigned by the learned single Judge and we do uphold the contention of the learned counsel for the appellant that the principle of “no work no pay” will not be applicable, still, for the twin reasons mentioned above, we decline to interfere.



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11.This Writ Appeal stands dismissed. No costs. Consequently,

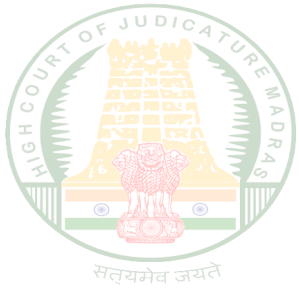
connected miscellaneous petition is closed.

[G.R.S., J.] [R.K.M, J.]
23.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

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Revisional Authority
under Section 153 of
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- 2.The Special Officer,
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R.KALAIMATHI, J.

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