



W.P.No.19521 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2026

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.19521 of 2023

G.Lava

... Petitioner

Vs.

1.Joint Registrar of Co-Operative
Societies/ Revision Officer
Office of Joint Registrar of Co-Operative Societies
Kallakuruchi Region
Kallakurichi
Kallakurichi District.

2.President
Sempiyam Mahadevi Primary Agricultural
Co-Operative Society
Sembiyam Mahadevi,
Kallakurichi Taluk
Kallakurichi District.

3.President
Kalamarudur Primary Agricultural
Co-Operative Society
Ulunthurpet Taluk
Villupuram District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records pertaining to the order of revision petition made in Na.Ka.No.561/2022/A1 dated 12.04.2023 on



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the file of the first respondent and by confirming the termination order passed by the second respondent proceeding dated 28.02.2019 to quash the same.

For Petitioner : Mr.S.Sairaman

For Respondents : Mr.V.Sivalingam for R1
Government Advocate
Mr.R.Neethi Perumal for R2 and R3

O R D E R

This writ petition has been filed seeking issuance of Writ of Certiorari, call for the records pertaining to the order of revision petition made in Na.Ka.No.561/2022/A1 dated 12.04.2023 on the file of the first respondent and by confirming the termination order passed by the second respondent proceeding dated 28.02.2019 to quash the same.

2.The learned counsel appearing for the petitioner submitted that the petitioner joined the service in the year 1992 and in the year 1996, his service was regularized as a Clerk. While he was serving as a Clerk, surcharge proceedings was initiated under Section 87 of the Tamil Nadu Co-operative Societies Act as though the petitioner abetted the Secretary in his misdeeds and subsequently, the petitioner was



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dismissed from service. However, on filing of revision, his dismissal was set aside and thereafter he was reinstated in service and was posted in a different society as foreign service, wherein, again the charge memorandum was issued to him on 04.12.2018 for another alleged misappropriation. Subsequently, by following due procedure, domestic enquiry was conducted and ultimately, the Enquiry Officer submitted report on 31.01.2019. In furtherance of the enquiry report, further explanation was sought for from the petitioner and ultimately, punishment of dismissal from service was imposed against him on 28.02.2019. Aggrieved over the same, the petitioner preferred revision and ultimately, the order of dismissal was confirmed on 12.04.2023.

3.The learned counsel appearing for the petitioner further submitted that as per the charge memo dated 04.12.2018, there was a charge in respect of delinquency that had taken place in the year between 1992 to 1996. In this regard, there was an earlier disciplinary proceedings in which, though he was dismissed from service ultimately by filing revision under Section 153 of the Tamil Nadu Co-operative Societies Act, his punishment was set aside. Therefore, it is their contention that the second charge memorandum



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dated 04.12.2018 is liable to be quashed as it would amount to double
jeo pardy.

4.However, his contention was objected to by the learned counsel appearing for the respondents 2 and 3 and he would content that apart from charge 1 and 2 yet another charge was framed against the petitioner, wherein, after reinstatement, he has again committed misappropriation to the tune of Rs.41,688/-. Therefore, the subsequent charge memorandum cannot be faulted with. Furthermore, the findings of the Enquiry Officer is based upon the admission of the petitioner. Therefore, absolutely there are no grounds to interfere in the impugned order. It is also his submission that the petitioner being a Cashier, being in a high confidential post, the charge of misappropriation should be viewed seriously, otherwise, it would give wrong signal to those in the same designation.

5.I have given my anxious consideration to either side submissions.

6.The facts in respect of earlier delinquency and subsequent setting aside order of dismissal is not in dispute. Now the point for



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consideration is, whether merely including the old charge in the subsequent disciplinary proceedings which had finally reached its finality is fatal or not.

7.In this regard, it is appropriate to refer the argument of the learned counsel appearing for the respondents 2 and 3, wherein, he would contend that though the first charge relates to the earlier delinquency in which disciplinary proceeding ended in favour of the petitioner, apart from that there is also another charge of similar nature of yet another misappropriation in the subsequent post in which a sum of Rs.41,688/- was misappropriated. In this regard, he would rely upon the findings rendered by the Enquiry Officer, wherein the Enquiry Officer taking into consideration of the admission given by the petitioner, to the effect he has fabricated the chitta as if the amount of Rs.25,000/- is available in the society, and his conduct of seeking apology, ultimately held that the second charge of misappropriation is proved.

8.Therefore, as rightly submitted by the learned counsel appearing for the respondents 2 and 3, though there is no direct admission for misappropriation, the very statement of the petitioner



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that he has made an alteration in the chitta as if Rs.25,000/- is available in the society, though according to him was lost, would clearly demonstrate the criminal intention of the petitioner. As rightly submitted by the learned counsel appearing for the respondents 2 and 3, what is required in disciplinary proceedings is only a preponderance of probabilities and not proof beyond reasonable doubt. While analyzing the reason given by the Enquiry Officer, the ultimate findings rendered by the Enquiry Officer with regard to the charge of misappropriation cannot be faulted. In such view of the circumstances, this Court absolutely does not find out any infirmity in the findings rendered by the disciplinary authority.

9.At this juncture, it is also relevant to mention the submission of the petitioner counsel that what was admitted is only the loss of amount which cannot be equated as if it was admission of misappropriation. Even for argument sake, if the said submission is accepted, it may only give an alternate finding. But to interfere with the impugned order what is necessary is that the findings rendered by the Enquiry Officer shall not be probable one. But as already stated, the findings rendered by the Enquiry Officer is probable. While exercising the power under Article 226 of the Constitution of India, this



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Court cannot substitute the possible factual findings rendered by the Enquiry Officer. Therefore, this Court absolutely does not find any infirmity in the findings of the Enquiry Officer.

10.Coming to the punishment, though the learned counsel appearing for the petitioner would submit that the punishment imposed on the petitioner is shockingly disproportionate, considering the fact that this being delinquency of misappropriation of fund that too in a cooperative society, by a Cashier would definitely viewed seriously, as the petitioner was holding a very responsible position. Therefore, as rightly contended by the learned counsel appearing for the respondents 2 and 3, this Court is of the firm view that the termination of service is only the proportionate punishment to the proven charge. Hence, this Court does not find any merits in the writ petition.

11.The writ petition is dismissed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

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NCC: Yes/ No

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C.KUMARAPPAN,J.
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