

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WA.No. 26 of 2015 () IN WP(C).12057/2014

**AGAINST THE ORDER/JUDGMENT IN WP(C) 12057/2014 of HIGH COURT OF KERALA
DATED 14-10-2014**

APPELLANT(S)/PETITIONER:

**THE VENJARAMOOD SERVICE CO-OPERATIVE BANK LTD.,
NO.2419, REPRESENTED BY ITS SECRETARY
VENJARAMOODU.P.O
THIRUVANANTHAPURAM DISTRICT-695607.**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR**

RESPONDENT(S)/RESPONDENTS:

- 1. H.SWARNALATHA,
ASSISTANT SECRETARY
VENJARAMOOD SERVICE CO-OPERATIVE BANK LTD.NO.2419
VENJARAMOODU.P.O
THIRUVANANTHAPURAM DISTRICT-695607.**
- 2. THE CO-OPERATIVE ARBITRATION COURT,
THIRUVANANTHAPURAM-695004.**
- 3. THE KERALA CO-OPERATIVE TRIBUNAL,
THIRUVANANTHAPURAM-695004.**
- 4. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),
THIRUVANANTHAPURAM-695004.**

**R1 BY SRI.GEORGE POONTHOTTAM
BY SR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 26 of 2015
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Dated this the 7th day of January, 2015

J U D G M E N T

Antony Dominic, J.

The appellant had filed WP(C) No.12057/14 challenging the award passed by the Arbitration Court and the judgment of the Co-operative Tribunal confirming the same whereby the disciplinary proceedings initiated by them against the 1st respondent were invalidated by both the authorities. The learned single Judge having dismissed the writ petition, this appeal is filed.

2. We heard the learned counsel for the appellant, learned counsel appearing for the 1st respondent and the learned Government Pleader appearing for respondents 2, 3 and 4.

3. The contention raised by the learned counsel for the appellant is that even if any irregularity is found in the disciplinary action, the Arbitrator, the Tribunal and the learned single Judge should not have invalidated the proceedings as such and should have granted liberty to the appellant to proceed against the 1st respondent afresh. However, having considered the submissions, we are unable to accept the contention of the learned counsel.

4. The facts show that there was instance of misappropriation in the Bank. In the disciplinary proceedings that were initiated against the chargesheeted employee, the 1st respondent was also a witness. The evidence adduced by the 1st respondent appears to have been unsatisfactory. The enquiry officer submitted a report, where it was suggested that the involvement of the other persons should also be enquired into. It was thereupon that the 1st respondent was chargesheeted for misappropriation along with two other persons including the one person, who was already proceeded against. The report was submitted absolving the 1st respondent from the charges. However, the disciplinary authority found that the 1st respondent was guilty of misconduct of dereliction of duty and lack of responsibility. On that basis, the 1st respondent was ordered to be imposed a punishment of reversion to the post of Assistant Secretary from the post of Secretary which she was holding then.

5. The appeal filed by the 1st respondent was rejected by the administrative committee consisting of 9 members. It was in

these circumstances, the 1st respondent moved the Arbitration Court, which invalidated the proceedings against her. This is confirmed by the Tribunal by dismissing the appeal filed by the Society. It was these proceedings which was called in question before the learned single Judge.

6. As we have already noted, the grievance of the appellant that is voiced before us is that the authorities mentioned above and the learned single Judge should have, in spite of their findings, given liberty to the appellant to proceed against the 1st respondent for the misconduct for which she was already punished. The facts on the basis of which she was chargesheeted and punished and the facts constituting the misconduct of dereliction of duties, for which she is sought to be proceeded against, are one and the same. Therefore, on the very same set of facts, the delinquent having been proceeded against and when those proceedings have already culminated, law does not permit a fresh proceedings against the delinquent on the very same set of facts lest that would amount to a case of total

jeopardy. In such circumstances, we cannot accept the request now made by the learned counsel for the appellant.

We do not find any error in the view taken by the learned single Judge. Appeal, therefore, fails and is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

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PA to Judge