

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.6970 of 2014

S.Rajappan

.. Petitioner

vs.

1.The Government of Tamilnadu,
Rep by its Secretary to Government,
Cooperation, Food and Consumer
Protection (CL1) Department,
Fort St.George, Chennai-9.

2.The Registrar of Cooperative Societies,
No.170, N.V.N.Maligai,
Kilpauk, Chennai-10.

3.The Joint Registrar of
Cooperative Societies,
Salem Region, Salem.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the 1st respondent in his order in G.O.Ms.(T).No.295, Cooperation, Food and Consumer Protection (CL1) Department dated 30.12.2013, confirming the order of the second respondent in Na.Ka.No.116720/2010 o.na. Dated 11.03.2011 and the order of the 3rd respondent in Na.Ka.No.423/09 o.na (2) dated 28.09.2010, quash the same.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents: Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order of the first respondent in G.O.Ms.(T).No.295, Cooperation, Food and Consumer Protection (CL1) Department dated 30.12.2013, confirming the order of the second respondent in Na.Ka.No.11670/2010 o.na dated 11.03.2011 and the order of the third respondent in Na.Ka.No.423/09 o.na(2) dated 28.09.2010.

2. The petitioner entered service in the Cooperative Department as Junior Inspector on 16.12.1986 and after serving in various capacities, he was promoted as Co-operative Sub-Registrar on 09.07.1998 and now working as Co-operative Sub-Registrar under the control of Deputy Registrar of Cooperative Societies, Salem and have completed more than 28 years of unblemished service in the Cooperative Department. While the petitioner was working as Supervisor in the Mettur Industrial Cooperative Housing Society, it is alleged that the petitioner, in collusion with P.Venkatachalam, Special Officer of the society and G.Viswanathan, Secretary of the society, had sanctioned housing loan to 31 persons after receiving bribe from them and that those loans were given to old houses that are not built. Charges were framed against the petitioner and two others under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules on 29.04.2009, for which the petitioner submitted his explanation dated 20.10.2009 and having not satisfied with the explanation, the third respondent appointed an Enquiry Officer. The Enquiry Officer, after completion of enquiry, submitted his report dated 26.03.2010.

3. The only one charge framed against the petitioner and Thiru.P.Venkatachalam, Special Officer was split into two issues and the Enquiry Officer held that the first issue of receiving bribe for sanctioning housing loan was held to be not proved and the second issue of giving loan for old existing houses and houses that are not built was held to be proved. The third respondent, on receipt of the Enquiry Report, has passed an order dated 28.09.2010 holding that the petitioner is guilty of second charge and imposed the punishment of increment cut for two years with cumulative effect. Hence, the petitioner as well as Thiru.P.Venkatachalam, Special Officer, filed appeals before the second respondent, who passed an order dated 11.03.2011, confirming the order of the third respondent. Further revision was filed before the first respondent, however the first respondent did not consider their revision and therefore, the said Thiru.P.Venkatachalam filed W.P.No.1092 of 2012 and this Court disposed of the said writ petition by directing the first respondent to dispose of the revision within a stipulated time. The first respondent took up the revision only in respect of Thiru.P.Venkatachalam and passed an order in G.O.Ms(T) No.51, Cooperation, Food and Consumer Protection Department dated 08.03.2013 and remanded the matter to the third respondent, who reconsidered the issue and passed an order dated 28.11.2003, holding that the punishment already given is in excess and reduced it to increment cut for two years alone without cumulative effect. However, the first respondent dealt with the revision filed by the petitioner separately and without giving him an opportunity of personal

hearing, passed an order in G.O.Ms.(T).No.295, Cooperation, Food and Consumer Protection (CL1) Department dated 30.12.2013, rejecting the petitioner's revision . Challenging the same, the petitioner has come forward with this writ petition.

4. When the matter is taken up for consideration, the learned counsel appearing for the petitioner would submit that when the first respondent has chosen to remit back the matter in respect for Thiru.P.Venkatachalam on the same set of charges to the Joint Registrar/third respondent, the same order ought to have been passed in respect of the revision filed by the petitioner also, but the revision filed by the petitioner was dismissed and thus, he sought for modification of the punishment on par with Thiru.P.Venkatachalam, Special Officer.

5. Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit and would submit that the petitioner is holding the post of Cooperative Sub-Registrar and whereas Thiru.P.Venkatachalam is holding the post of Special Officer and the duty of the Cooperative Sub Registrar is more responsible than the Special Officer and the onus for the sanction of loan lies mainly on the Cooperative Sub-Registrar and therefore, the gravity of offence committed by the petitioner is more when compared to Thiru.P.Venkatachalam, Cooperative Special Officer of the society and thus sought for dismissal of the writ petition.

6. Keeping the submissions made on either side, I have gone through the entire materials available on record.

7. A perusal of the materials placed would disclose that same set of charges were framed against the petitioner as well as Thiru.P.Venkatachalam. In the case of Thiru.P.Venkatachalam, Special Officer, the punishment imposed on him is modified to increment cut for two years without cumulative effect, whereas different yardstick has been applied to the petitioner and as such there was disparity in the punishment awarded in respect of the petitioner. According to the Enquiry Officer's report, receipt of bribe was held to be not proved as against the petitioner as well as Thiru.P.Venkatachalam. When that being so, I am of the opinion that the petitioner is also entitled to similar relief as that of Thiru.P.Venkatachalam.

8. In the result, this Writ Petition is allowed and the order of the first respondent in G.O.Ms.(T).No.295, Cooperation, Food and Consumer Protection (CL1) Department dated 30.12.2013, confirming the order of the second respondent in Na.Ka.No.11670/2010 o.na dated 11.03.2011 and the order of the third respondent in Na.Ka.No.423/09 o.na(2)

dated 28.09.2010 are set aside and the respondents are directed to modify the punishment imposed on the petitioner in similar lines as that of Thiru.P.Venkatachalam and pass orders as expeditiously as possible. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary to Government,
The Government of Tamilnadu,
Cooperation, Food and Consumer
Protection (CL1) Department,
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2.The Registrar of Cooperative Societies,
No.170, N.V.N.Maligai,
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3.The Joint Registrar of Cooperative Societies,
Salem Region, Salem.

+ 1 cc to Mr.M.S. Palaniswamy, Advocate Sr.61247

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SKV(CO)
EU 30.11.16

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