

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

CORAM :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No. 14676 of 2011

S.Ramanujam

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies
and Revisional authority,
Appavu Nagar, Dharmapuri.
2. The Special Officer
Dharmapuri District Central Co-operative Bank Ltd.,
Netaji By-Pass Road, Dharmapuri.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the Order in Na.Ka.No.5664/2010 SB dt. 04.01.2011, on the file of the first respondent herein and quash the same and consequently allow the revision filed by the petitioner in R.C.No.5664/2010 SA.PA.1 and direct the second respondent to pay the sum of Rs.50,000/- recovered from the petitioner.

For Petitioner : Mr.Mani Sundargopal

For Respondents : Mr.T.P.Savitha - R1
Government Advocate

Mr.M.S.Palanisamy - R2

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O R D E R

The petitioner was an erstwhile employee of the second respondent and he was working as an Assistant in the Non-Farm Sector Loans -A5 between 19.07.2004 and 31.01.2008. On the ground that he has neglected to perform his duty and caused loss to the second respondent Bank, a charge memo dated 21.7.2008 consisting of two articles of charge were issued to the petitioner.

2.The charges initially related to the allegation that the petitioner did not immediately discharge the mortgage loan availed by one Karunakaran, eventhough the said Karunakaran had repaid the loan. This was said to be dereliction of duty. The Enquiry Officer, who was appointed to enquire into the charges has held that the charges were proved and accordingly, the disciplinary authority issued a second show cause notice, proposing to impose a penalty on the petitioner. After considering the explanation given by the petitioner on 10.04.2010, the order of punishment dated 20.4.2010, was passed, imposing fine of Rs.50,000/-. Challenging the said order, the petitioner filed a Revision Petition before the first respondent under section 153 of the Tamil Nadu Co-operative Societies Act, 1983 and the revisional authority by order dated 04.01.2011, dismissed the Revision Petition. Challenging the same, the petitioner is before this Court.

3.After hearing the learned counsel for the parties and perusing the materials placed on record, it appears that there is no clear basis for imposing the fine of Rs.50,000/-. The submission of the learned counsel for the second respondent is that the said amount was imposed as fine, since the District Consumer Redressal Forum imposed fine of Rs.50,000/- on the second respondent Bank on an Application filed by Karunakaran alleging deficiencies in service. However, it is seen that the Consumer Forum has not imposed Rs.50,000/-as fine, but ordered for compensation of Rs.4,93,103/- in COP No.15 of 2005. Therefore, it is clear that the amount of fine of Rs.50,000/- is an adhoc amount which has not been specifically explained by the authorities. One subsequent development, which has been taken note of by this Court is that in an appeal filed against the order of the District Consumer Disputes Redressal Forum, the State Consumer Disputes Redressal Commission has set aside the order and imposed a fine of Rs.10,000/-, on the second respondent Bank. Thus, as on date, even as per the submission of the second respondent Bank, the petitioner has not been imposed with fine of more than a sum of Rs.10,000/-. It is submitted by the learned counsel for the petitioner that the petitioner has attained the age of superannuation and he has retired from service, however, a sum of Rs.50,000/- has been withheld by the second respondent Bank.

4.The copy of the order passed by the State Consumer Disputes Redressal Commission dated 31.12.2010 has been circulated by the learned counsel for the petitioner, from which, it is seen that the State Commission accepted the case of the second respondent Bank that the claim made by Karunakaran was absolutely without giving any particulars and the amount of compensation claimed for alleged deficiency is not acceptable and accordingly, quantified the compensation towards deficiency of service at Rs.10,000/-.

5.It may be true that the second respondent Bank might have incurred certain expenses in contesting the case before the State Commission as well as before this Court. However, the fact remains that a sum of Rs.50,000/- has already been withheld from the petitioner's retirement benefit and he has been permitted to retire.

6.Considering the developments in the matter, this Court is of the view that the punishment imposed on the petitioner could be modified since there appears to be no clear basis for imposition of fine of Rs.50,000/- on the petitioner. The other issue which has been pointed out by the learned counsel for the petitioner is that the copy of the enquiry report submitted by the enquiry officer has not been furnished. However, this allegation is denied in paragraph No.4 of the counter affidavit filed by the second respondent.

7.Thus, taking note of all the above facts and also the order passed by the State Commission, this Court is of the view that the punishment could be modified in the instant case. Of course under normal circumstances, the Court will remand the matter to the authority to reconsider the punishment. However, since the petitioner has already retired from service, the fine of Rs.50,000/- imposed by the second respondent Bank stands modified and the second respondent Bank will be entitled to deduct a sum of Rs.15,500/- from and out of the amount of Rs.50,000/- retained by the second respondent Bank and credit the balance amount to the petitioner's account or pay the same by way of cheque directly to the petitioner.

With the above modification, the Writ Petition stands partly allowed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

rpa

To

1. The Joint Registrar of Co-operative Societies and Revisional authority, Appavu Nagar, Dharmapuri.
2. The Special Officer Dharmapuri District Central Co-operative Bank Ltd., Netaji By-Pass Road, Dharmapuri.

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3. The District Consumer Disputes
Redressal Forum,
Dharmapuri.

4. The State Consumer Disputes
Redressal Commission,
Chennai.

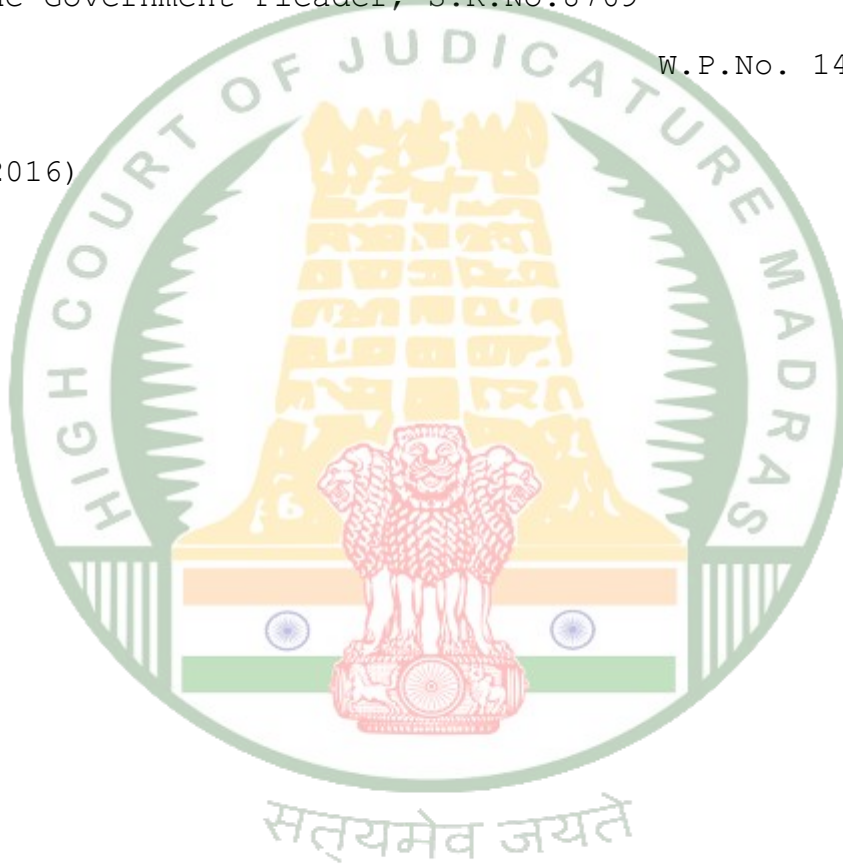
+1cc to Mr.Mani Sundargopal, Advocate, S.R.No.8647

+1cc to Mr.M.S.Palanisamy, Advocate, S.R.No.8849

+1cc to the Government Pleader, S.R.No.8769

W.P.No. 14676 OF 2011

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