IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.12.2023

PRONOUNCED ON : 12.08.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.Nos.27832 of 2014
and
W.M.P.No.1 of 2014

T.Balu

...Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Vellore Region, Vellore.

2. The Managing Director/Special Officer
Villupuram District Central Co-operative Bank Ltd.,
Villupuram. ..Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus,calling for the records of the first respondent to R.P.No.13 of 2013 dated 05.08.2014 and the order of the second respondent in his proceeding Na.Ka.No.7175/2011/E-1 (3) dated 23.11.2012 and quash the same and direct the respondents to reinstate the petitioner into service with all benefits from the date of dismissal.

For petitioner	:	Mr.K.Raja for Mr.M.Kaviveerappan
For R1	:	Ms.C.Sangamithirai Special Government Pleader
For R2	:	Mr.L.R.Shanmugasundaram

O R D E R

This writ petition is filed to quash the proceeding passed by the second respondent and direct the respondents to reinstate the petitioner into service with all benefits from the date of dismissal.

2. The facts in brief culled out from the affidavit enclosed in the writ petition are as follows:

2.1. The petitioner had been working as a Assistant Manger in Central Co-operative Bank Ltd., Anathapuram Branch and was transferred to Villupuram town Branch and was ordered to act as Manager (Banking) by the Special Officer from 24.05.2010 to 05.06.2011.

2.2. According to an oral instruction from the Special Officer, the petitioner was compelled to grant Small Business Joint Responsibility Group Loans to the existing Small Business Joint Responsibility Group after closure of their earlier loans.

2.3. The Joint Director/Special Office issued a charge memo dated

08.01.2011 to the petitioner stating that during his tenure as Assistant Manager/Manager in charge working from 26.08.2010 to 24.07.2010 has disbursed the Small Business Joint Responsibility Group Loans without following the rules and circular instructions issued by the Registrar of Co-operative Societies and caused financial loss of Rs.96,50,000/- to the bank.

2.4. However,the Joint Registrar/Special Officer, Villupuram District Central Co-operative Bank cancelled the charge memo dated 08.01.2011 and issued another charge memo *vide* proceeding dated 29.12.2011. The charges that were framed against the petitioner are as under:

1. without disbursing loans to the small business joint responsibility groups the petitioner had misappropriated a sum of Rs.1,06,10,098/- by falsifying the accounts and has caused loss to the bank.

2. without disbursing loan it was falsely implicated that the petitioner has disbursed loans to 35 small business joint responsibility groups and had misappropriated a sum of Rs.33,10,000/- by falsifying the accounts and caused financial loss.

3. While the petitioner was working as a Manager in Villupuram

Town Branch, he failed to take legal proceedings under Section 90 of the Act against the small business joint responsibility loans disbursed before.

4. The petitioner failed to appear in the enquiry proceeding before the Deputy Registrar under Section 81 of the Act

5. The petitioner failed to abide by the guidelines issued by the Bank circulars and did not follow the instructions of the higher officials while disbursing the small business joint responsibility group loans.

2.5. The petitioner was placed under suspension from 22.02.2012 for a period of three moths and subsequently extended twice, till 22.11.2012. The Special Officer has issued proceeding dated 22.02.2012 directing the petitioner to submit his explanation within a period of 15 days. As the petitioner did not submit his explanations Domestic Enquiry Officer was appointed and the enquiry officer submitted his report holding that the charges 1,3,4 and 5 were proved. On receipt of the enquiry report dated 26.09.2012 the petitioner submitted his explanations on 01.11.2012.

2.6. Simultaneously, an enquiry under Section 81 of the Tamil Nadu Co operative Societies Act was ordered and report was filed by the

Deputy Registrar, Villupuram. Accordingly, surcharge proceedings were initiated against the petitioner under Section 87 of the Tamil Nadu Co operative Societies Act and the Deputy Registrar as per proceedings dated 07.02.2013 has passed an award for a sum of Rs.1,04,94,608/- with interest at the rate of 12% p.a. and the same was served on the petitioner on 28.02.2013. Aggrieved by the same the petitioner filed a appeal under Section 152 of the Tamil Nadu Co operative Societies Act in C.M.A.No.5 of 2013 and in C.M.P.No.68 of 2013 obtained an order of interim stay for the operation of the award passed dated 07.02.2013 and the appeal is stated to be pending.

2.7. The petitioner had sanctioned loans to the groups after verifying their credentials, *viz.,* ration card with photos, saving account, etc., and further it was the responsibility of the higher officials, *viz.,* Special Office, Joint Registrar., etc., to supervise and verify the group loans. The loans sanctioned by the petitioner was only renewal of the previous loans and fresh were disbursed to the groups as approved by the Special Officer and other officials.

2.8. A report was sent to C.C.I.W of police stating that the petitioner has misappropriated a sum of Rs.33,10,100/- by falsifying the accounts basing on which a case was registered against the petitioner, an FIR was issued.

2.9. The Joint Registrar of Co-Operative Societies initiated proceedings under Section 87 of the Act to recover the alleged loss caused to the Bank and the said proceedings were stayed by the Co-Operative Tribunal, Villupuram in I.A.No.68/2013 in C.M.A.No.5/2013. Further, surcharge proceedings are pending against the petitioner and action has been initiated under Section 87 of the Act, which is incorrect.

3. Counter affidavit has been filed by the second respondent and learned counsel for the second respondent has submitted that the petitioner has committed various serious irregularities while he was working as a Assistant Manager in Town Branch between 24.05.2010 to 05.06.2011. Subsequently, charge sheet was issued and was called for explanation. But the petitioner did not submit his explanation. An enquiry officer was appointed to enquire the charges leveled against the petitioner and the enquiry officer after completion of enquiry has submitted his findings dated 26.09.2012, holding that except the charge No.2 stated above, all the

other charges were proved; the petitioner was called to submit his explanations *vide* proceeding dated 12.10.2012 and he submitted his explanations. He was called to attend the personal hearing also. After all, an order of dismissal of the petitioner was passed on 23.11.2012. Aggrieved by the same, the petitioner filed a Revision Petition under Section 153 of the Act and the same was dismissed by an order dated 05.08.2014 by the first respondent.

4. It is further submitted by the learned counsel for the second respondent that based on the enquiry report disciplinary action and surcharge action was initiated against the petitioner under Section 87 of the Tamil Nadu Co-Operative Societies Act, 1983 and also a criminal complaint was pending and all these actions are different in nature. The orders passed by the first and the second respondents are based on the irregularities committed by the petitioner. The petitioner has indulged in various misconducts and misappropriated more than Rs.1 crore and caused heavy loss to the bank and hence, the relief sought cannot be granted.

5. Heard both sides and perused the record.

6. The dismissal of the petitioner from service which was confirmed by the revisional authorities under the Cooperative Society Act is under challenge in this writ petition.

7. It is alleged that the petitioner being a Assistant Manager while working at Villupuram branch from 24.05.2010 to 05.06.2011 has given credit to 114 small business liability groups and misappropriated of Rs.1,04,94,608/-.

8. In respect of charge No.1 the petitioner has taken a defence that he has followed the procedure and adhered to the protocols while disbursing loans. The enquiry officer and the revisional authority have gone into the details and have held that charge No.1 against him was proved.

9. In respect of charge No. 3 it is alleged that the petitioner while he was working as a Branch Manager in Villupuram District Central Cooperative Society Bank has committed misconduct by failing to proceed to initiate under Section 90 of the Joint Liability Group Small Business

Joint Liability Group Loans Act. It is alleged that he should have initiated proceedings against the borrowers who have committed default. It is submitted by the learned counsel for the petitioner that the Managing Director with the approval of the Board will have to initiate legal proceedings on behalf of the society. It is also submitted that the petitioner has taken steps by sending notices through registered post to the defaulters and since he was transferred from that place he could not take further action. The explanation offered by the petitioner was not accepted by the enquiry officer as well as the revisional authorities. The petitioner has though mentioned that he has issued notices, admittedly he has not initiated any proceedings for recovery of loans under the relevant provisions of the Co operative Societies Act. Therefore, the revisional authority has rightly appreciated and dismissed the revision petition in respect of the said charge.

10. In respect of charge No.4, it is alleged that while he was working as Manager, Villupuram District Central Cooperative Bank, the Special Investigating Team of the Registrar of Co operative Societies conducted statutory enquiry under Section 81 of the Cooperative Act in respect of the loans granted by him to Small Business Joint Liability

Group. However, the petitioner failed to appear before the investigating officer even after receipt of summons. The petitioner then appeared for the enquiry as addressed a letter dated 30.05.2011 stating that due to his personal work he was unable to appear before the enquiry officer. The petitioner was given three opportunities to appear for the enquiry but under one pretext or the other, he failed to appear before the investigating officer. As rightly observed by the revisional authority and also the enquiry officer the explanation offered by the petitioner for not appearing before the investigating officer is not at all convincing. If really he has not committed default there is no reason as to why he should escape from the investigating officer. I do not see any error in the conclusion of the the investigating officer in respect of charge No.4.

11. In respect of charge No.5, it is alleged that the petitioner while he was working as a Manager in the city branch of Villupuram District Central Cooperative Bank, he acted in contravention of the Bank's circular in respect of the procedure to be followed for disbursement of loans to small business joint liability groups by disregarding the advice of the higher officer and failed to discharge his duties and responsibilities, properly.

12. With regard to disbursement of loans to small business joint liability groups, various instructions have been issued to the Branch Manager stating that loan amount in the name of the group should be credited by opening a separate savings account in the name of all the members of the group and the total amount in the name of the group should not be disbursed if requested by the promoter or representative of the group. However, it is alleged that the petitioner, ignoring the circulars and directions issued by the superior officer has disbursed 34 loans in a verbal manner in contravention of the circular.

13. The petitioner has offered explanation to the charges framed stating that the Special Officer has visited the branch and instructed the promoters and representatives of the group to disburse the loan amounts as per the existing procedure and accordingly loan amount was disbursed. The Special Officer has threated him that he would be suspended if he fails to disburse the loans. Therefore, in all the petitioner has admitted that he has disbursed the loans to 34 small business cooperative groups during the period from 05.10.2010 to 20.10.2010 in violation of the circulars. The petitioner should not have disbursed the loans even if the Special Officer

has either threated or requested him in violation of circulars. If at all the Officer has threatened him, he should have brought the same to the notice of the higher officials instead he has stated the same only during the course of enquiry.

14. On considering the charges one, three to five charges it is clear that the petitioner has allegedly misappropriated huge amounts and has not followed the procedure while disbursing the loan amounts. If the petitioner has followed the circulars and directions of the superior officers there would not have been any scope for changes. The petitioner being a responsible manager of the Bank is expected to follow the procedure. The charges leveled are very serious and during the course of enquiry it is found that he has committed huge financial irregularities.

15. The orders passed by the revisional authorities are speaking orders and the findings of the enquiry officer cannot be found fault. The petitioner was given proper opportunity and his explanation was called for and on considering the explanation and final orders have been passed. The grounds urged by the petitioner in defense against the charges are not convincing and thereby, cannot be accepted.

16. On considering the enquiry report and orders passed by the revisional authority, it is clear that the enquiry was properly conducted and that the orders passed by the revisional authorities are not perverse. As the revisional authority has passed very reasonable order, taking into consideration all the defense raised by the petitioner, this Court is of the opinion that there is no perversity in the orders passed and thereby, the findings of the revisional authorities cannot be interfered with.

17. Accordingly, this writ petition is dismissed. Connected M.P. is closed. No costs.

12.08.2024

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Index	:	Yes/No
Internet	:	Yes/No
Citation	:	Yes/No

Dr.D.NAGARJUN,J.
vca

To:

1. The Commissioner of Sugar,
   No.474, Anna Salai, Nandanam,
   Chennai - 600 035.
2. The Special Officer,
   Kallakurichi Coop. Sugar Mill, Unit - I,
   Moongilthuraipattu post,
   Sankarapuram Taluk,
   Villupuram District.

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