

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.09.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.36272 of 2015
and
M.P.No.1 of 2015

V.Sundaram

... Petitioner

- Vs -

1. The Deputy Registrar of
Co-operative Societies (Diary),
Vellore.

2. The Managing Director,
Vellore Thiruvannamalai
District Milk Producers
Co-operative Union,
Vellore-632 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of
Certiorari, calling for the records relating to the impugned
order of the Principal District Judge, Vellore dated 16.03.2015
made in C.T.A.No.29 confirming the order dated 29.09.2010 of the
1st respondent made in Surcharge Proceeding Case No.1/2009-2010
and quash the same.

For Petitioner : Mr.R.Rajaram

For R1 : Mr.L.P.Shanmugasundaram,
Special Govt.Pleader

For R2 : Mr.R.Balaramesh
Additional Govt.Pleader

O R D E R

The petitioner joined in the 2nd respondent Milk Producers
Co-operative Union as a daily wage skilled worker in the year
1994. The 2nd respondent is the Milk Union and it maintained four
centres at 1.Ambur, 2. Sathuvachari Vellore, 3. Vengikkal

(Tiruvannamalai) and 4. Anakavoor (Cheyyar) and the milk supplied by the village societies are collected at their nearby Chilling Plants and after the process of chilling the milk sent to the 2nd Respondent Milk Union and Milk Federation at Chennai. It is submitted that the Village Societies have maintained the accounts for supplying the Milk twice daily as mandated by Section 84 of the Tamil Nadu Co-operative Societies Act, 1983 and chilling plants also recorded the procurement of milk twice daily and sent the details to the Head Office of this Union by way of a computerised data.

2. During the year 2005-06, there are several employees were working in computer section. There was also a Selection Grade Executive, Mr. M. Mohan was in-charge of the computer section. Each and every work in the said computer section was carried out as per the instruction of the said Selection Grade Executive. Sunnambupallam Village Milk Producers co-operative society also one of such society to send Milk to the 2nd respondent Union. One Tirupathi was the President of the Village Society. Another one Mr. M. Mohan was the Selection Grade Executive of the society and who have manipulated the records of daily receipt of milk by falsely boosted up the quantities and the amount payable by the Union to the Societies were also falsely manipulated in the computer recording. On enquiry, the said irregularities are found and therefore, the surcharge proceedings was initiated under Section 87 of the Act. Before the enquiry officer M. Mohan who was Selection Grade Executive and in-charge of computer section made a statement that the petitioner is responsible for the mis-appropriation and creating the false records by boosting up quantity of milk procured from the Village Society. The then President and Secretary of the Village Society and M. Mohan was also a party to the enquiry under Section 87 of the Act.

3. The Enquiry Officer, by considering petitioner's letter dated 22.04.2004 and also the statement made by M. Mohan that the petitioner is responsible for this mis-appropriation. By considering other materials and statements of the other employees of the Society, Award was passed against the petitioner and also against the aforesaid President and Secretary and M. Mohan. Challenging the said Award, the President preferred an appeal before the Tribunal.

4. The petitioner has raised the ground that without furnishing the copy of the enquiry report and other documents Section 87 enquiry was conducted by the Deputy Registrar of Co-operative Societies. The petitioner has preferred an appeal against that order in C.T.A.No.29 of 2010. The said C.T.A., was

dismissed, during the enquiry the petitioner made a statement before the Deputy Registrar of Co-operative Societies. There is no request made by the petitioner for furnishing of the said documents. Further, it is held by the appellate court that on the basis of the materials, the petitioner was well aware of the process of computer data processing. It is also admitted by letter dated 22.04.2004, the petitioner has been knowledge about the computer data processing in the Unit. Therefore, the the contention of the petitioner was negatived by the Tribunal and the appeal was dismissed.

5. The learned counsel for the petitioner submitted that the nature of assignment assigned to the petitioner under Milk Procurement Team. Further, the 2nd respondent union has not established that the petitioner has manipulated the records and boosted the quantity of procurement union. The aforesaid aspect was not considered by the authority as well as the Tribunal and therefore, the writ petition is filed before this Court.

6. The learned Additional Government Pleader would submit that in the aforesaid writ petition, the petitioner has obtained interim order and interim stay was granted by this Court on condition that the petitioner shall deposit 50% of the demand as against him, within the period of eight weeks from the date of receipt of a copy of this order, failing which the interim order granted by this Court shall stand automatically vacated without any further reference to this Court. The said interim order has not been complied with. Hence, the interim order already granted by this Court is automatically vacated. Therefore, on this ground also this writ petition is liable to be dismissed. The learned counsel for the respondent submitted that the respondent has not assigned any assignment regarding computer data processing.

7. The learned Additional Government Pleader would submit that the petitioner has participated in the enquiry before the Deputy Registrar of Co-operative Societies. The appellate Tribunal has rightly rejected the said contention of the petitioner. The two conditions of the petitioner that the nature of the work assigned to the petitioner that the said contention on perusal of the records would clearly shows that the said contention is not correct and in the letter dated 22.04.2004, the petitioner having knowledge about the data processing in computers. Further, it is also recorded that M.Mohan has made a statement that the petitioner is responsible for creating bogus records for procurement. On the contrary, there is no misappropriation made by the petitioner to disprove the claim

against the petitioner. Therefore, in view of the above said fact, this writ petition is liable to be dismissed.

8. In the aforesaid facts, the petitioner by his letter dated 22.04.2004 had admitted that he has knowledge of the data processing in computer unit. Further, the admitted statement made by M.Mohan that he is one of the employee of the society and in-charge of the computer section and he clearly states that the petitioner held responsible for the mis-appropriation and also created bogus records and documents for procuring Milk. As rightly pointed out by the learned Additional Government Pleader that the petitioner has not produced any materials to disprove the statement made by Mr.M.Mohan and also demand made by the petitioner in his letter dated 22.04.2004. Therefore, the petitioner has knowledge of computer data processing in the computer section and the contention of the petitioner is liable to be rejected. Even though, the petitioner has raised the grounds before the Tribunal that copy of the documents have not been furnished by the petitioner before the appellate Tribunal and hence, the Tribunal has rightly concluded that the petitioner has not objected the statement made by him before the Deputy Registrar of Co-operative Societies or any other claim before the enquiry officer at the enquiry. Therefore, in the light of the decision of this Court in the case of S.Ramadevi v. Special Officer, Ambur Co-operative Sugar Mills and Others reported in 2016 4 LW 452, wherein, the petitioner is permitted to peruse the records and thereafter raising the grounds that they are furnishing copy of the documents which was rejected. In the present case, the petitioner has not placed any materials before this Court to show that the petitioner has requested the documents but were not permitted to peruse the records. Therefore, on this ground also, the contention of the petitioner is liable to be rejected.

9. Further, as per the award passed by the Deputy Registrar of Co-operative Societies, the defendants 3 and 4 have already paid the said loan amount of Rs.92,544/- and remaining 12% interest is concerned, the petitioner and the other defendants are jointly and severally held responsible for the payment of the said amount. It seems that the petitioner alone has challenged the said award and orders have been passed by the Tribunal in the appeal before this Court.

10. Therefore, the petitioner and other employees of the Society are held responsible and the reasons stated by the Tribunal does not warrant any interference and there is no irregularity or illegality in the order passed by the Tribunal.

11. In view of the facts and circumstances of the case, the writ petition is dismissed. It is open to the petitioner to make representation before the authorities concerned to reconsider the rate of interest for the recovery amount. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-Iv)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Deputy Registrar of Co-operative Societies (Diary), Vellore.
2. The Managing Director, Vellore Thiruvannamalai District Milk Producers Co-operative Union, Vellore-632 009.

- + 1 cc to Mr. Rajaram, Advocate SR.70018
- + 1 cc to Mr. Government Pleader Rs.70796
- + 1 cc to MR. R. Balaramesh, Advocate SR.70350

W.P.No.36272 of 2015
and
M.P.No.1 of 2015

AD(CO)
EU(26/12/2017)

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