

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6.9.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
W.P.No.12457 of 2009

DD.80 DHARMAPURI DISTRICT CO-OPERATIVE
UNION LTD. REP. BY ITS SPECIAL OFFICER,
DHARMAPURI. ... PETITIONER

Vs.

- 1 THE PRESIDING OFFICER
DHARMAPURI COOPERATIVE TRIBUNAL/
PRINCIPAL DISTRICT JUDGE, DHARMAPURI.
- 2 N.SAKTHIVEL,
5/1209 ADIYAMAN STREET,
ILLAKIAMPATTY COLLECTORATE POST,
DHARMAPURI.
- 3 THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES,
DHARMAPURI. ... RESPONDENTS

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the order in C.M.A.(CS) No.17/2008 dated 22.04.2009 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.M.S.Palaniswamy

For Respondent No.2 : Mr.G.Ethirajulu

For Respondent No.3 : Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader

O R D E R

According to the petitioner, the second respondent herein was working as a Special officer in the petitioner's Society during the period 29.6.2001 to 1.1.2003. During the said period, one Singaravelu was appointed by the second respondent as Night watchman on daily wage basis in the petitioner's Society. The said appointment is contrary to the said Rules. Therefore, Surcharge order has been passed against

the second respondent in Proceedings No.Na.ka.4/2000, dated 10.2.2003 under Section 87 of the Tamilnadu Cooperative Societies Act for the illegal appointment to the post of Night Watchman. Challenging the Surcharge order, dated 10.2.2003, the second respondent herein filed an appeal in C.M.A. No.17 of 2008 before the first respondent Tribunal and the Surcharge proceedings was set aside by the tribunal. Challenging the judgment passed by the tribunal, the petitioner Society has filed the present writ petition before this Court.

2 The learned counsel for the petitioner Society contended that Singaravelu was appointed as Night Watchman during the year 1998 and he was removed from the Night Watchman post on 1.1.2003. During the relevant period, the second respondent was Special Officer in the petitioner Society and paid salary to the second respondent, the same is contrary to Rule 149 of the Tamilnadu Cooperative Societies Rules. Therefore, the second respondent caused loss to the Society. The learned counsel for the petitioner Society would submit that the act of the second respondent would amounts to wilful negligence and therefore, the second respondent is liable to pay Rs.69,353/- towards loss sustained by the Society.

3 The learned counsel for the second respondent would submit that the second respondent has assumed office as Special officer on 29.6.2001. The aforesaid Singaravelu was appointed as Night Watchman on 30.6.1998 itself. Therefore, the petitioner has nothing to do with the illegal appointment of Singaravelu. According to the second respondent, the illegal appointment made by the petitioner Society would not attract wilful negligence on the part of the second respondent. Therefore, the tribunal has rightly allowed the appeal and the writ petition is liable to be dismissed.

4 Heard the learned counsel for the petitioner and the learned counsel for the second respondent and the learned Special Government Pleader for the third respondent and perused the materials available on record.

5 A perusal of the record would show that admittedly, the second respondent assumed office on 29.6.2001 and Singaravelu was appointed on 30.6.1998. That being the case, there is no record to show that Singaravelu was illegally appointed by the second respondent and thus loss caused to the petitioner Society and fixing the responsibility against the second respondent. There is no violation by the second respondent for the charges levelled against him and proceeded under Section 87 of the Tamilnadu Co-operative Societies and passed Surcharge award against the second respondent. The tribunal has rightly held that the second respondent has served as Special Officer in the petitioner

society on 29.6.2001, after Singaravelu was appointed. Hence, the contention of the society was rightly rejected and passed detailed order. Hence, this court confirmed the well reasoned award passed by the tribunal. Therefore, there is no error or illegality in the judgment passed by the first respondent tribunal.

6. The writ petition fails and accordingly dismissed.
No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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1 THE PRESIDING OFFICER
DHARMAPURI COOPERATIVE TRIBUNAL/
PRINCIPAL DISTRICT JUDGE, DHARMAPURI.

2 THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES,
DHARMAPURI.

+1cc to M/s.Palaniswamy, Advocate sr.65342

+1cc to Government Pleader sr.65425

W.P.No.12457 of 2009

ss(6/10/2017)

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