

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.07.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.31750 of 2002

V.M. NATARAJAN

[PETITIONER]

Vs

1 COIMBATORE DIST. CONSUMER
COOP. WHOLESALE STORES LTD. COIMBATORE.

2 THE DEPUTY REGISTRAR OF COOP.
SOCIETIES, COIMBATORE.

3 R.JAGANNATHAN

4 C.V. RANGARAJAN

[RESPONDENTS]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Writ of Certiorarified mandamus calling for the records of the learned Principal District Judge, Coimbatore in C.M.A.No.37 of 1996 dated 07.11.2001 confirming the order of the Deputy Registrar of Co-operative Societies in Complaint No.3256/80-81 dated 10.05.1995 and quash the same and consequently exonerate the petitioner of all the allegations made against him in the proceedings of the Coimbatore District Consumer Co.op. Wholesale Stores Ltd., in NPA No.5/80-82 dated 30.06.1984.

For Petitioner : Mr.R.Dhamodaran
For Respondents : Mr.V.Sanjeevi (R1)
Mr.N.EA Dinesh (R3)
Ms.T.Girija, GA (R2)
Mr.B.Ramamoorthy (R4)

ORDER

This writ petition has been filed challenging the award passed in C.M.A.No.37 of 1996 dated 07.11.2001 and consequently exonerate the petitioner of all the allegations made against him in the proceedings of the Coimbatore District Consumer Co.op. Wholesale Stores Ltd., in NPA No.5/80-82 dated 30.06.1984.

2. Heard the learned counsel on either side and perused the materials available on record.

3.1 It is the case of the petitioner that he joined as a Salesman in the Chinthamani Co-operative Super Market, Gandhipuram Coimbatore. In the year 1976, he was appointed as a Clerk. While so, The Coimbatore District Consumer Co-operative Wholesale Stores Limited, framed charges by proceedings dated 30.06.1984 and asked to show cause as to why disciplinary action should not be taken against him for the allegation that the petitioner and respondents 3 and 4 have jointly misappropriated a total sum of Rs.1,06,104.33, being the value of 15,66,576 printed paper covers and they have also manipulated the records and committed forgery for the purpose of committing the said offence.

3.2 It is the further case of the petitioner that an enquiry officer was appointed and based on the report of the enquiry officer, the Deputy Registrar of Co-operative Societies, Coimbatore, by order dated 10.05.1995 directed him and the respondents 3 and 4 to pay a sum of Rs.1,06,014.33 to the Society with interest at 17% p.a.

3.3 According to the petitioner, as against the above said order, he preferred an appeal in C.M.A. No.37 of 1996 before the Principal District Judge, Coimbatore and the respondents 3 and 4 have also preferred separate appeals in C.M.A.Nos.19 and 22 of 1996. The learned Principal District Judge, in a common Judgment dated 07.11.2001, while allowing the appeals preferred by the respondents 3 and 4 by setting aside the award passed against them, allowed the appeal preferred by the petitioner in part, by confirming the award passed against him and modifying the interest alone by reducing the same from 17% to 13 ½ %.

Challenging the above said order, the petitioner filed this writ petition before this Court.

4. The learned counsel for the petitioner would submit that by order dated 01.08.2002, this Court has granted an interim order, which reads as follows:-

"Interim stay on condition subject to the petitioner depositing 1/3rd of the amount determined with the respondent Co.op. Society within a period of six weeks from the date of receipt of a copy of this order, failing compliance of the above condition, the stay will get automatically vacated".

and pursuant to the said order, since the petitioner had not complied with the conditional order, this Court, by order dated 10.09.2003, dismissed the petition for stay.

5. It is brought to the notice of this Court that thereafter, the respondent Special Officer, had initiated proceedings against the petitioner and in response to the said proceedings, the petitioner had submitted his letter dated 27.07.21012 to the Coimbatore District Consumer's Co-operative Wholesale Stores Limited, by accepting to remit a sum of Rs.2,95,000/- to the Society, including interest at the rate of 13.5% from June 1995 to January 2012, with a request to waive the interest for the remaining period from 02.11.1981 to 31.05.1995 on account of the family circumstances and also on health grounds. However, the authority did not accept his request stating that the interest for the period 02.11.1981 to 31.05.1995 comes to Rs.1,80,397/-.

6. According to the learned counsel for the 1st respondent, there is no provision under the Act for waiving the interest, as requested by the petitioner.

7. At this stage, the learned counsel for the petitioner would submit that the interest rate has to be reduced, in the light of the decision of this Court. The learned counsel for the respondent Society submitted that when there is no provision under the Act for waiver of interest, question of waiver of interest does not arise.

8. The learned counsel for the petitioner submitted that in such a case, liberty may be granted to the petitioner to approach the Tribunal to file an appropriate application.

9. The learned counsel for the respondent Society would submit that in case of granting liberty to the petitioner, an opportunity may be given to the respondents to putforth their

contentions.

10. Pursuant to the award, the petitioner had submitted his letter dated 27.07.21012 to the Coimbatore District Consumer's Co.operative Wholesale Stores Limited, accepting to remit a sum of Rs.2,95,000/- to the Society, including interest at 13.5% from June 1995 to January 2012, with a request to waive the interest for the remaining period from 02.11.1981 to 31.05.1995 on account of the family circumstances and also on health grounds. The said request was not accepted by the 1st respondent, as evident from the letter produced by the learned counsel for the 1st respondent, signed on 21.12.2016. In view of the subsequent developments pending the writ petition, this Court is of the view, that liberty may be granted to the petitioner to putforth his claim only in respect of disputed interest portion alone, payable to the respondent Society, by giving an opportunity to file a review application before Tribunal.

11. In view of the above, the writ petition is dismissed. However, liberty is granted to the petitioner to file a review application before the Tribunal only with respect to interest portion alone, within a period of four weeks from the date of receipt of a copy of this order, if so advised, in case of filing such application before the Tribunal, it is open to the 1st respondent to file a counter affidavit and agitate the matter before the Tribunal in the aforesaid review application. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

- 1 COIMBATORE DIST. CONSUMER
COOP. WHOLESALE STORES LTD. COIMBATORE.
- 2 THE DEPUTY REGISTRAR OF COOP.
SOCIETIES, COIMBATORE.

+1 cc to Mr.V.Sanjeevi Advocate sr 48909
+1 cc to the Government Pleader sr 48807
+1 cc to Mr.V.Nicholas Advocate sr 48377
+1 cc to Mr.R.Dhamodaran Advocate sr 48441

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