

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.13917 of 2017

and

W.M.P.Nos.15115 & 15116 of 2017

No.J-188 The Nilgiri District Plantation Workers' Cooperative Thrift & Credit Society Ltd., rep. by its President, Raman Nair Building, Rokeby, Coonoor - 643 101 Nilgiris District. Petitioner

vs.

1. The Revisional Authority/ Joint Registrar of Co-operative Societies, Nilgiris Regiona, Udthagamandalam - 643 001.

2. K.Maheshwari ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records relating to the impugned orders passed by the 1st respondent in his proceedings in Revision No.08/2016 (Na.Ka.No.3039/2016/B.4) dated 07.04.2017 and quash the same.

For Petitioner : Mr.R.Krishnamoorthy

For Respondents: Mr.R.Bala Ramesh,
Special Government Pleader (Co.op.) for R1

Mr.B.Sundarapandiyan for R2.

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O R D E R

The petitioner Co-operative Society is aggrieved against the order of the 1st respondent dated 07.04.2017 in modifying the punishment imposed on the 2nd respondent.

2. The 2nd respondent was working as a Manager in the Kothagiri Branch run by the petitioner society. She was issued with a charge memo dated 12.09.2016 by framing the following charges.

(a) that she had committed misconduct under by-law No.14(21) that is she was not regular in attendance and duties as Manager and also entering on Leave without the permission of the Assistant Secretary/President;

(b) that she had failed in her duties and responsibilities besides dereliction of duties as Manager of the Branch by disobeying the directions dated 06.06.2016 of the President; and

(c) that she was irresponsible in keeping the safe-lock of the Branch and allowed the key to be handled by others and she has failed to rectify and improve herself even though she was punished for misconduct in the past.

After conducting domestic enquiry, an order of punishment was passed by the petitioner Management on 01.12.2016, wherein and whereby, the 2nd respondent was awarded with punishment of demotion of service as Accountant for a period of three years with effect from 01.12.2016 and also stoppage of increment for two years with cumulative effect and also transferring the petitioner to other branch. Challenging the said order, the 2nd respondent filed a revision before the 1st respondent. The 1st respondent, after conducting enquiry, passed the impugned order on 07.04.2017 modifying the punishment by imposing stoppage of increment for three months instead of two years and also by setting aside the punishment of reversion with further direction to the Management to appoint the 2nd respondent in the post of Manager by posting her in the Branch nearer to the Head Office. The revision authority has also observed that the period of suspension should also be treated as eligible leave. The above order of the 1st respondent is challenged in this writ petition.

3. Learned counsel for the petitioner contended that the 1st respondent ought not to have modified the punishment as the petitioner should have been directed to file an appeal against the said order of punishment before the Appellate Authority. It is further contended by the learned counsel that by modifying the said punishment, the morale of the employees of the petitioner Society is shaken.

4. On the other hand, learned counsel appearing on the 1st respondent submitted that the 1st respondent is having power under section 153 of the Tamilnadu Cooperative Societies Act and that the 1st respondent, while exercising such power, has rightly considered that the punishment imposed on the 2nd respondent as not proportionate and thus, the order passed by the 1st respondent need not be interfered with.

5. Learned counsel appearing for the 2nd respondent also submitted that the 2nd respondent is now at the verge of

retirement and she is to retire in the month of March, 2019 and therefore, if the order passed by the 1st respondent is not given effect to, she will be put to great hardship. Learned counsel further contended that the punishment imposed by the petitioner was not proportionate to the said charges.

6. Heard both sides.

7. It is not in dispute that the 1st respondent has not set aside the charges levelled against the 2nd respondent in toto without imposing any punishment. On the other hand, the 1st respondent has found that the 2nd respondent is guilty. However, he found that the punishment imposed was not proportionate to the charges levelled against the 2nd respondent. Considering the charges levelled against the 2nd respondent and also considering the fact that the 1st respondent has only modified the punishment based on appreciation of proportionality of the same, this Court is not inclined to interfere with the order passed by the first respondent by exercising its discretionary jurisdiction, more particularly, by considering the fact that the 2nd respondent is due to retire in three months from now.

8. Considering the above stated facts and circumstances, this writ petition is dismissed. Consequently, the petitioner is directed to implement the order passed by the 1st respondent immediately and grant all benefits to the 2nd respondent derived out of such order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Vsi
To

The Revisional Authority/ Joint
Registrar of Co-operative Societies,
Nilgiris Regiona,
Udhagamandalam - 643 001.

+1cc to Mr.R.Krishnamoorthy, Advocate sr.no.86980
+1cc to Mr.B.Sundarapandian, Advocate sr.no.87117

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nr 17/12/2018