

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 1780 of 2007

ORDER:

It has been stated by the petitioner that while he was working as in-charge Manager, he was kept under suspension and pending disciplinary enquiry, respondents removed him from service vide proceedings dated 31.3.1997. Challenging the same, petitioner filed a revision before the Additional Registrar, Co-operative Societies, Andhra Pradesh, Hyderabad, and the same has been rejected by proceedings, dated 25.09.1998. Aggrieved by same, the petitioner filed a writ petition being WP No.31709 of 1998, which was allowed by this Court by order, dated 24.08.2004, setting aside the impugned dismissal order, dated 31.03.1997, observing as follows:

“...Accordingly, the impugned orders are set aside. The petitioner is entitled for reinstatement into service with all consequential benefits. However this order will not preclude the authorities from proceeding with the enquiry against the petitioner, if they so desire.”

2. Aggrieved by the same, respondents filed writ appeal being WA No. 2089 of 2004 and the Hon'ble Division Bench of this Court by order dated 12.07.2006, set aside the order dated 24.08.2004 passed in WP No.31709 of 1998. Thereafter, respondents passed orders, dated 12.07.2006 and recovered the amount of Rs.69,519/- from the terminal benefits of the petitioner. Thereafter, the contempt case, being CC No.1250 of 2005 filed by the petitioner

was dismissed by this Court by order dated 28.8.2006 observing as follows:

“ Leaving it open to the petitioner to file an application within two weeks from today claiming the amount to be paid along with interest , which would be considered and disposed of in accordance with law within four (04) weeks thereof.”

3. It is the case of the petitioner that in compliance of the above said orders, petitioner submitted a representation to the respondents on 08.09.2006, but the respondents did not consider and dispose of the same. Challenging the inaction, the petitioner filed the present writ petition seeking to issue writ of *Mandamus* declaring the action of respondents in adjusting the amount of Rs.69,519/- towards misappropriation amount at the time of disbursement of loans as arbitrary and illegal.

4. Heard both sides and perused the material available on record.

5. Learned counsel for petitioner would submit that the respondent authorities without following due process of law and without giving an opportunity to the petitioner, suo motu issued removal orders. Further, respondents without considering the representation dated 12.08.2006 submitted by the petitioner, arbitrarily adjusted the amounts from his terminal benefits. Hence, the impugned order warrants interference of this court under Article 226 of the Constitution of India.

6. Learned counsel for respondent would contend that the respondent bank basing on the orders passed by this court in WA No.2089 of 2004 and after conducting a detailed enquiry, has rightly deducted the said amount from the terminal benefits of the petitioner, in pursuance of the surcharge proceedings dated 11.12.2002. Hence, there is no illegality or infirmity committed by the respondent in passing the impugned order.

7. In the light of the above submissions, without going into the merits of the case, the writ petition is disposed of directing the petitioner to submit a fresh representation to the respondent authorities, in case they did not receive the same earlier, within a period of one week from the date of receipt of the copy of the order and upon receipt of such representation, the respondents shall consider the same and pass appropriate orders within a period of four weeks thereafter. No costs.

8. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

27th September, 2018
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