

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION NO.24667 OF 2007**

**ORDER:**

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the proceedings No.361/7/S/CS/AEO/SEN/CSN/HC/W.P.No.9828 /07/2007-2008, dated 29.9.2007 issued by the General Manager, District Co-operative Central Bank Limited, Medak at Sangareddy, and to quash the same by holding them as illegal and arbitrary, and consequently, to hold that the petitioner is entitled to be reinstated into duty with all consequential benefits including pay, allowances and other attendant benefits.

2. Heard Sri D. Linga Rao, learned Counsel for the petitioner and Sri M. Jagannadha Sarma, learned Counsel for the respondents.

3. It is the case of the petitioner that he was appointed as attender under the control of D.C.C. Bank Limited, Medak at Sangareddy during the year 1991 and since then, he has been continuing in the said post. Thereafter, he was posted as Cashier (in officiating capacity) and he was discharging his duties regularly without any complaints. While so, on the allegation of misappropriation and irregular withdrawal of cheques, the respondent-Bank initiated disciplinary proceedings against the

petitioner and also the Manager of the Bank. The petitioner was placed under suspension vide proceedings dated 24.6.2006 pending enquiry. Thereafter, the respondents issued a charge memo dated 20.7.2006 to the petitioner alleging that he exhibited gross negligence in discharging the duties authorizing the messenger to withdraw Rs.5 lakhs vide cheque dated 23.6.2006. The petitioner submitted his explanation. Being not satisfied with the same, the respondents appointed enquiry officer. The enquiry officer after conducting enquiry submitted his report on 25.9.2006 and thereafter, a show cause notice dated 3.4.2007 was issued to the petitioner proposing to impose punishment of dismissal from service. Assailing the said show cause notice, the petitioner filed W.P.No.9828 of 2007 before this Court. But the said writ petition was dismissed as withdrawn. Then, the petitioner submitted his explanation for the said show cause notice dated 3.4.2007. Thereafter, the 1<sup>st</sup> respondent issued impugned proceedings dismissing the petitioner from service. Aggrieved by the same, the petitioner filed this writ petition.

4. The learned Counsel for the petitioner contended that the Manager had made a complaint to the police on 24.6.2006, in which, it is stated that the Manager authorized the attender P. Narasimhulu to go in advance to SBH Medak and obtain token by submitting the cheque, whereas in the domestic enquiry, the

Manager took a U turn and deposed against the petitioner. Further, the learned Counsel for the petitioner contended that the Manager, who is the real culprit in the entire transaction of misappropriation of bank funds was let off with a minor penalty whereas the petitioner was imposed major penalty of dismissal, and therefore, the action of the respondents is discriminatory, illegal and arbitrary.

5. The learned Counsel for the respondents has contended that the Manager, who had indulged in misappropriation of bank funds, was given the punishment of reduction of his scale of pay to the extent of Rs.5.625/-, and the liability of Rs.5 lakhs was also fixed on him, and he retired from service on attaining the age of superannuation on 31.3.2008, and that he paid the entire amount of Rs.5 lakhs before his retirement.

6. It is the case of the petitioner that the Manager, who had involved in the transaction in question, was let off with a minor penalty whereas the petitioner, who is no way concerned with the same transaction, was inflicted with punishment of dismissal. It has not been disputed by the learned Standing Counsel for the respondents that the Manager, who had involved in misappropriation of funds of the Bank was inflicted with the punishment of reduction of pay scale to an extent of Rs.5,625/- and with the financial liability of Rs.5 lakhs, and the said Manager

retired from service on attaining the superannuation and he cleared off his financial liability of Rs.5 lakhs.

7. Admittedly, the misappropriated amount of Rs.5 lakhs was recovered from the Manager. From this, it can be inferred that the Manager had played a vital role in misappropriation of bank funds. It is pertinent to note that when a person, who is at the helm of affairs and who played a vital role in misappropriation of bank funds was let off with minor penalty, the punishment of dismissal imposed on the petitioner, who is an attender, is discriminatory and illegal. Apart from that, the punishment of dismissal from service is shockingly disproportionate to the charges levelled against the petitioner. Since the petitioner is an attender, he should have followed the instructions of the Manager and therefore, the disciplinary authority ought to have taken a lenient view. The punishment of dismissal from service is shockingly disproportionate to the charges proved against the petitioner.

8. In the above circumstances, this Court is of the view that the impugned proceedings dated 29.9.2007 are liable to be set aside.

9. Accordingly, the Writ Petition is allowed setting aside the impugned proceedings dated 29.9.2007. However, the respondents are directed to consider, to impose any of lesser punishment other than the removal, dismissal and compulsory retirement, since the

punishment of dismissal is shockingly disproportionate to the charges proved against the petitioner. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

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**(ABHINAND KUMAR SHAVILI, J)**

Dated: 20<sup>th</sup> September, 2018

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**Dated: 20.9.2018**

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