

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.2426 of 2001

ORDER:

This writ petition is filed seeking writ of certiorari calling for the records relating to and connected with the impugned surcharge order passed by the 2nd respondent in Rc.No.1992/91-C dated 14.9.1999 and consequential orders passed by the 1st respondent in Rc.No.Secretaries/A.7 & B.12/Fin. Audit of Accounts/2000-2001 dated 30.11.2000 and quash the same as arbitrary and illegal.

Heard Sri K.Muralidhar Reddy, learned counsel for the petitioner and the learned Government Pleader for Cooperation.

It is submitted by the petitioner that his father while working as Assistant Manager at District Cooperative Central Bank, Piler Branch expired on 9.6.1991 and he was appointed on compassionate grounds as Staff Assistant/Clerk on 1.10.1991. It has been further submitted by the petitioner that based upon the audit report submitted by the audit team on 26.6.1991, the 2nd respondent-Bank issued surcharge order in Rc.No.1992/91-C dated 14.9.1999 ordering to recover an amount of Rs.5,000/- with interest at 18% p.a. from the petitioner, alleging that his father had committed certain irregularities. It has been further submitted by the petitioner he cannot be held responsible for the misconduct committed by his father and the order of surcharge is passed after the death of his father.

Learned Government Pleader appearing for the respondents would contend that the 2nd respondent-Bank had rightly passed the surcharge order ordering to recover an amount of Rs.5,000/- from the petitioner with interest at 18% p.a. since the petitioner is the son of the deceased employee.

Learned counsel appearing for the petitioner would contend that the petitioner had given an undertaking before this Court to pay a sum of Rs.5,000/- to the respondents. He further contended that payment of interest at the rate of 18% p.a. is very high and the surcharge order to the extent of payment of interest may be set aside.

In view of the submissions made by both the parties, this Court is of the view that ends of justice would be met if the petitioner is directed to pay a sum of Rs.5,000/- to the respondents in pursuance to the impugned surcharge order dated 14.9.1999 and insofar as payment of interest at 18% p.a. is concerned, the same is liable to be set aside as the interest rate is very high and the respondents cannot recover interest from the petitioner for the misconduct committed by his father and who is no more.

Accordingly, the Writ Petition is partly allowed and the impugned surcharge order passed by the 2nd respondent in Rc.No.1992/91-C dated 14.9.1999 is set aside to the extent of payment of interest at 18% p.a. since the petitioner had come forward to pay a sum of Rs.5,000/-. The petitioner is directed to pay a sum of Rs.5,000/- (Rupees five thousand only) to the respondents within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the undertaking given

by the petitioner shall not be entered as stigma in his service register.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 20/08/2018

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