

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.1420 OF 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The District Cooperative Central Bank Limited, Medak at Sangareddy, and its Deputy General Manager at the Sangareddy Branch are in appeal aggrieved by the order dated 20.09.2018 passed by a learned Judge of this Court allowing W.P.No.24667 of 2007, wherein they figured as respondents. The said writ petition was filed by the respondent herein assailing the proceedings dated 29.09.2007 issued by the General Manager of the appellant bank, whereby he was dismissed from service. By the order under appeal, the learned Judge set aside the impugned proceedings dated 29.09.2007 but left it open to the bank to impose any lesser punishment other than removal, dismissal and compulsory retirement from service. Cause for interference in the writ petition was the doctrine of proportionality as the Manager of the bank, who was also involved in the incident of misappropriation of bank funds, was let off with the penalty of reduction of his pay to Rs.5,625/- apart from recovery of the misappropriated amount.

Heard Sri M.Jagannatha Sarma, learned counsel for the appellants, and Sri D.Linga Rao, learned counsel for the respondent-writ petitioner.

The respondent-writ petitioner entered the service of the bank in the year 1991 as an Attender. He was subsequently posted as a Cashier on an officiating basis and was discharging his duties as such at the relevant point of time. In that capacity, he was subjected to disciplinary proceedings in relation to misappropriation of a sum of Rs.5,00,000/-, along with the Manager of the bank. While dismissing the respondent-writ

petitioner from service, the bank imposed upon the Manager the punishment of reduction of his basic pay to Rs.5,625/-, *vide* proceedings dated 29.09.2007. It appears that during the pendency of the disciplinary proceedings, the Manager himself replenished the sum of Rs.2,50,000/- out of the total misappropriated amount of Rs.5,00,000/-.

Sri M.Jagannatha Sarma, learned counsel, would fairly state that at the time of his retirement from service, the Manager refunded the balance sum of Rs.2,50,000/- also.

In that view of the matter, it is clear that the Manager was let off with a comparatively lesser punishment but the respondent-writ petitioner, who was actually an Attender and working as a Cashier only in an officiating capacity, was dismissed from service. As rightly pointed out by the learned Judge, the Manager, being in a higher position, could not have been let off with such lesser punishment when the respondent-writ petitioner was picked upon for the major punishment of dismissal from service. The involvement of the Manager in the misappropriation would have to be viewed far more seriously and all the more so as he uncomplainingly returned the entire misappropriated sum. The role played by the respondent-writ petitioner would have to be viewed in the context of the hierarchy in which the Manager and he stood and therefore, the punishment of dismissal from service imposed upon him was shockingly disproportionate, as rightly held by the learned Judge. We therefore find no grounds to interfere with the order under appeal.

At this stage, Sri M.Jagannatha Sarma, learned counsel, would point out that though the issue of maintainability of the writ petition against the District Cooperative Central Bank, Medak at Sangareddy, was also raised, the learned Judge did not deem it appropriate to deal with the

same and therefore, that issue may be left open for consideration in an appropriate case.

We accordingly leave this aspect of the matter open.

The writ appeal is dismissed subject to the above observation.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

Date: 23.10.2018
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