HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 10628 of 2002

O R D E R:-

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to the judgment dated 09.02.2001 in C.T.A.No. 116 of 1998 delivered by the 3rd respondent – Co-oerative Tribunal and quash the same by holding it as arbitrary and illegal and consequently direct the 1st and 2nd respondents to take the petitioner as Paid Secretary with all consequential benefits.

Heard Sri N. Ashok Kumar, learned counsel for the petitioner and the learned Government Pleader for Co-operation and perused the material placed on record.

The brief facts of the case are that the petitioner was appointed as Paid Secretary in the 2nd respondent – Primary Co-operative Agricultural Society at Divenapally village. While so, the 1st respondent - Deputy Registrar of Co-operative Societies issued surcharge order dated 15.03.1985 to the effect that the petitioner is liable to pay a sum of Rs.5,982.14. Challenging the same, the petitioner filed C.T.A. No. 1 of 1985 before the 3rd respondent - Tribunal, which, by order dated 30.12.1987, remanded the matter to the 1st respondent for reconsideration, and the 1st respondent, after reconsidering the entire case on merits, passed the surcharge orders dated 21.12.1990. Challenging the same, the petitioner, once again filed C.T.A.No. 116 of 1998, and the Co-operative Tribunal, by the impugned judgment dated 09.02.2001, dismissed the appeal confirming the surcharge order dated 21.12.1990 passed by the 1st respondent. Challenging the same, the present writ petition is filed.

The record reveals that this Court, by order dated 18.08.2010, dismissed the writ petition for default against the 2nd respondent.

The learned counsel for the petitioner contends that the respondents alleged that the petitioner has misappropriated the amounts collected from the members of the Cooperative Society and did not enter particulars of collection in the cash book, but in fact, the petitioner collected the amounts from the members during November, 1979 and handed over the amounts to the President of the Society, who, in turn, did not make entries in the cash book, therefore, the petitioner is not responsible for the amounts but the President is responsible. It is further contended that when there was an allegation that the petitioner misappropriated the amounts, he approached the President on 17.08.1981 and requested to rescue him. In those set of circumstances, the President gave acknowledgement on a white paper to the effect that he received the amounts from the petitioner and in spite of producing the acknowledgement before the Tribunal, the Tribunal did not appreciate the evidence and mechanically dismissed the case.

The learned Government Pleader has contended that when the petitioner challenged the surcharge orders dated 15.03.1985 before the Tribunal by filing C.T.A.No. 1 of 1985, the Tribunal, without following principles of natural justice, allowed the appeal on 30.12.1987 remanding the matter to the 1st respondent for reconsideration, and on remand, the 1st respondent has given every opportunity to the petitioner, and after appreciating the entire case, issued surcharge orders on 21.12.1990. Being aggrieved by the same, when the petitioner filed C.T.A.No. 116 of 1998, the Tribunal rightly dismissed the appeal confirming the surcharge order dated 21.12.1990.

This Court, having considered the rival submissions of both the parties, is of the opinion that no illegality has been pointed out in the surcharge order dated 21.12.1990 passed by the 1st respondent - Deputy Registrar of Cooperative Societies and the amount indicated in the surcharge order is Rs.5,982.14 and the 1st respondent has rightly passed the surcharge order based on the record observing that the petitioner has misappropriated the amount. In view of the above, there is no illegality or perversity can be attributed to the impugned judgment dated 09.02.2001 delivered by the 3rd respondent – Co-operative Tribunal in C.T.A.No.116 of 1998 confirming the surcharge order dated 21.12.1990.

Hence, the writ petition is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

ABHINAND KUMAR SHAVILI, J

31.08.2018

bcj