

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Ms.JUSTICE P.T.ASHA
W.A.No. 2397 of 2013

M. Sivaprakasam ..Appellant/Petitioner

vs

1. The Joint Registrar of
Coopertative Societies,
Cuddalore Region,
Cuddalore,
Cuddalore District.

2. The Deputy Registrar of
Co-operative Societies,
Cuddalore Region,
Cuddalore District.

3. The Special Officer,
Melpattampakkam Primary,
Agricultural Co.op. Credit
Society, Melapattampakkam Post,
Cuddalore District.

.. Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order of the learned Judge made in W.P.21954 of 2007 dated 12.04.2012 dismissing the Writ Petition.

Prayer in W.P.21954 of 2007 : Petition under Article 226 of the Constitution of India praying for a writ of certiorari calling for the entire records relating to the impugned order passed by the Ist respondent in his proceedings Na.Ka.No.8474/2005 Thu.Va.Tha.1 dt 1.6.2006 and quash the same

For Appellant : Mr. S. Ayyathurai

For Respondents : Mr. L.P. Shanmugasundar, Spl.GP
for R1 and R2
Mr. M. S. Palaniswamy for R3

JUDGMENT

(Judgment of the Court was delivered by P.T.ASHA, J)

The above intra-court Appeal is filed challenging the order passed in W.P.No.21954 of 2007 in and by which the appellant's request to re-consider the punishment imposed on him viz: reduction to a lower stage in the time scale of pay has been rejected.

2. The brief facts that are necessary to dispose of the above Writ Appeal are as follows:

The appellant herein was employed as a Secretary with the 3rd respondent Cooperative Bank on 20.09.1983. While so, during an inspection by the Circle Supervisor, Panruti on 10.07.2002, the cash balance register ending with 09.07.2002 was not shown by the appellant. This clearly indicated that the appellant was guilty of mis-appropriation and therefore he was suspended from service on 11.07.2002. A charge memo was issued to the appellant on 3.09.2002 and an explanation was received from him on 09.09.2002 in which the appellant had admitted his guilt and pleaded forgiveness, on the basis of which, the 3rd respondent revoked the suspension. Thereafter, on 21.10.2002, the appellant had also joined duty. Since the appellant had admitted his guilt, a punishment of reduction to a lower stage in the time scale of pay was passed by the 3rd respondent. Aggrieved by the said order, the appellant had preferred a revision before the first respondent. The first respondent by order dated 1.06.2006 had confirmed the order passed by the 3rd respondent. This order is the subject matter of the W.P.No.21954 of 2007.

3. The learned Single Judge by order dated 12.04.2012 dismissed the said Writ Petition, against which the above Writ Appeal is preferred.

4. Mr. S. Ayyathurai, learned counsel who appeared on behalf of the appellant, would submit that the respondents have imposed a harsh punishment. He would contend that the reduction has been made to the lowest stage in the time scale which is contrary to the language of the order passed by the 3rd respondent and confirmed by the first respondent.

5. He would submit that as per the order dated 30.09.2005 of the 3rd respondent, the punishment was reduction to a lower stage in the time scale of pay next below to the scale of pay he was drawing at the time of suspension. The suspension was revoked in 2002 and it was not to the lowest stage.

6. Mr. M.S.Palaniswamy appearing for the respondents would contend that the punishment was imposed keeping in view the provisions of Bye law 28 (6) of the Bye laws relating to the

employees of the 3rd respondent society.

7. From the submission made by the learned counsels and on a perusal of the orders passed by the 3rd and 1st respondents as also the bye-laws, it is clear that the punishment that was imposed by the 3rd respondent and confirmed by the 1st respondent was a reduction to the lower stage in the time scale of pay viz; to the level just below the time scale of pay that the appellant was drawing. Therefore, the imposition of punishment to the lowest stage in a time scale is erroneous and requires to be interfered with.

8. The 3rd respondent is directed to rework the appellant's basic pay to the next lower stage in the time scale for the period from 1.10.2005 to 13.04.2009 and pay him the differential amount within a period of eight (8) weeks from today. The respondent shall pay 50 per cent of the above amount within a period of four (4) weeks from today and the balance 50 per cent within four (4) weeks there from. The order of the learned Single Judge is modified to the above extent and consequently the Writ Appeal is partly allowed with the above modification. No costs.

Sd/-

Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

mrn

To

1. The Joint Registrar of
Coopertative Societies,
Cuddalore Region,
Cuddalore,
Cuddalore District.

2. The Deputy Registrar of
Co-operative Societies,
Cuddalore Region,
Cuddalore District.

3. The Special Officer,
Melpattampakkam Primary,
Agricultural Co.op. Credit
Society, Melapattampakkam Post,
Cuddalore District.

4. The Domestic Enquiry Officer,
Joint Registrar of Co-operative Societies (Retired)
Melpattampakkam Primary Agricultural Co.Op
Credit Society, Melpattampakkam Post.

+1cc to Mr.S. Ayyathurai, Advocate SR.No.47457

+1cc to Government Pleader SR.No.47993

W.A.No.2397 of 2013

PP (CO)
GMY (12/07/2019)



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