



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2019

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No.6458 of 2015

and

MP (MD) No.1 of 2015

P.Vijayaraghavan

.. Petitioner

vs.

1.The President,
Dindigul Central Cooperative Bank Limited,
Cooperative Nagar,
Trichy Road, Dindigul.

2.The Joint Registrar/Managing Director,
Dindigul Central Cooperative Bank Limited,
Cooperative Nagar,
Trichy Road, Dindigul.

3.The Enquiry Officer,
Dindigul Central Cooperative Bank Limited,
Cooperative Nagar,
Trichy Road, Dindigul.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent dated 13.03.2015 in proceedings Na.Ka.No.93/2013-14/Pa.1 on the basis of the enquiry report submitted by the 3rd respondent and quash the same and consequently direct the respondents to conduct the enquiry afresh in an unbiased manner affording an opportunity to petitioner and to pass such other further orders.

For Petitioner : Mr.P.Authimoolapandian

For R1 & R3 : Mr.S.Angappan
Government Advocate

For R2 : Mr.Seenivasagam

ORDER

Challenging the impugned order of the first respondent dated 13.03.2015, dismissing the petitioner from service, this writ petition has been filed. A consequential direction to the respondents to conduct enquiry afresh in an unbiased manner has also been sought for.



2.The case of the petitioner, in brief, is as follows:

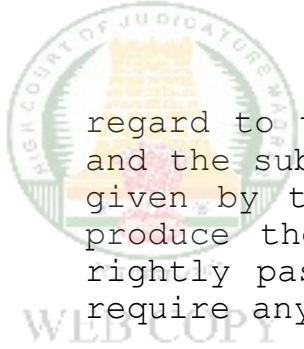
(i)The petitioner was working as a Circle Supervisor under the second respondent Cooperative bank and he was assigned with the work of inspecting the jewels pledged with the Primary Agricultural Cooperative Credit Societies within the Circles of Ottanchatram and Chatrapatti. While so, based on the allegation of theft at the time of inspection of the pledged jewels, the petitioner was placed under suspension. Challenging the same, a writ petition came to be filed before this Court and the same was dismissed by the order dated 08.01.2014.

(ii)In the meantime, the petitioner was issued with a charge memo dated 16.12.2013, setting out the allegations and irregularities committed by him, for which, the petitioner has sent his reply dated 18.01.2014. Thereafter, enquiry was conducted and after completion of enquiry, the Enquiry Officer submitted his report on 07.11.2014, holding that the charges levelled against the petitioner were proved, for which also, the petitioner has sent his explanation dated 13.12.2014. Being not satisfied with the explanation submitted by the petitioner, the first respondent passed the impugned order, dismissing the petitioner from service. Challenging the same, the petitioner is before this Court.

3.The second respondent filed a detailed counter affidavit stating that after completion of investigation, it came to light that the petitioner has committed fraud and he has voluntarily given a statement on 24.09.2013, admitting his guilt. The said admission was also authenticated by his father, by way of an undertaking dated 24.09.2013. Further, it is stated in the counter affidavit that after admitting his guilt, the petitioner has remitted the value of theft jewels, which is a conclusive proof for the admission of the guilt by the petitioner. The first respondent, based on the enquiry report and also considering the entire materials available on record, has rightly passed the impugned order, dismissing the petitioner from service and therefore, the writ petition, challenging the same is liable to be dismissed.

4.The learned counsel appearing for the petitioner submitted that the third respondent conducted enquiry in a biased manner with *mala fide* intention at the instigation of the second respondent and based on the enquiry report submitted by the third respondent, the first respondent has passed the impugned order, which is unsustainable in law and therefore, the same is liable to be quashed and a fresh enquiry is ordered to be conducted by the respondents.

5.Per contra, the learned Government Advocate for the respondents 1 and 3 and the learned counsel for the second respondent submitted that there is no *mala fide* intention on the part of the first respondent in issuing the impugned order. The first respondent, on scanning the enquiry report and after considering the entire materials available on record and also having



regard to the statement given by the petitioner admitting his guilt and the subsequent remittance of the amount and also the undertaking given by the father of the petitioner to the effect that he will produce the petitioner as and when he is called for enquiry, has rightly passed the impugned order and therefore, the same does not require any interference.

6.I have heard the rival submissions made on either side and perused the materials available on record.

7.The main contention put forth on the side of the petitioner is that enquiry has been conducted in a biased manner with *mala fide* intention and based on the enquiry report submitted by the third respondent, which is at the instigation of the second respondent, the impugned order has been passed.

8.The contention so made on the side of the petitioner is seriously resisted by the learned counsel for the respondents. In order to substantiate the impugned order, the second respondent has filed two documents, one is dated 24.09.2013, the statement given by the petitioner, admitting his guilt and the another one is dated 24.09.2013, the undertaking given by the petitioner's father.

9.In fact, this Court has scanned the entire materials available on record and ultimately found that after issuance of charge memo to the petitioner, a domestic enquiry was conducted and the concerned officials have also been examined in the presence of the petitioner. Thereafter, the first respondent, based on the enquiry report and also after considering the explanation given by the petitioner, has rightly passed the impugned order. Further, the petitioner has given his explanations for the notice issued to him in respect of the enquiry conducted. Subsequently, he has also admitted his guilt by giving a statement. When such being the factual position, the petitioner cannot turn around to say that enquiry was conducted in a biased manner and the conclusions arrived at by the Enquiry Officer are incorrect. Therefore, this Court does not find any merit in the contentions put forth on the side of the petitioner. As such, the present writ petition deserves to be dismissed.

10. In the result, this writ petition is dismissed. No costs. Consequently, MP(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //



To

1.The President,
Dindigul Central Cooperative Bank Limited,
Cooperative Nagar,
Trichy Road,
Dindigul.

2.The Joint Registrar/Managing Director,
Dindigul Central Cooperative Bank Limited,
Cooperative Nagar,
Trichy Road,
Dindigul.

3.The Enquiry Officer,
Dindigul Central Cooperative Bank Limited,
Cooperative Nagar,
Trichy Road,
Dindigul.

+1 CC to M/s.N.DAMODARAN, Advocate SR-59869.

+1 CC to M/s.S.SEENIVASAGAM, Advocate SR-60045.

+1 CC to SPL GP SR-60088.

W.P (MD) No.6458 of 2015
09.04.2019

CS: (03/06/2019) 4P 7C