

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.25113 of 2007

P.Narayani

...Petitioner

Vs.

1.The Joint Registrar of Co-operative,
Societies,
Villupuram.

2.The Special Officer,
I.I.55, Thiruvannainallur Co-operative Rural Bank Ltd.,
I, Main Road,
Thiruvannainallur - 607 203,
Villupuram District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records on the file of the first respondent relating to the impugned order dated 23.04.2007 bearing Ref.Na.Ka.No.7579/2006 SP, and the second respondent relating to the impugned order dated 24.05.2006 bearing ref.No.Nil and quash the same and consequently direct the respondents to reinstate the petitioner into service with full continuity of service, all other service benefits and backwages.

For Petitioner : Mr.R.Saravanan
for M/s.Sai, Bharath and Ilan

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

ORDER

This writ petition was filed by the petitioner seeking to quash the order of the first respondent in Ref.Na.Ka.No.7579/2006 dated 23.04.2007 and the order of the second respondent dated 24.05.2006 and also to direct the respondents to reinstate the petitioner into service with full continuity of service, all other service benefits and backwages.

2. The petitioner was working as a cashier at the second respondent Society. While she was working as a cashier, a charge memo dated 13.06.2005 was issued calling for explanation. She also submitted her explanation on 29.06.2005. Since the said explanation was not satisfactory, an enquiry officer was appointed by the second respondent. Without giving opportunity, the enquiry officer had filed a report dated 20.03.2006. Thereafter, along with the enquiry report, second show cause notice dated 27.03.2006 was issued to the petitioner calling for further explanation. The petitioner also submitted further explanation on 06.04.2006. Thereafter by an order dated 19.04.2006, the second respondent directed the petitioner to appear before him for personal hearing on 03.05.2006. On 03.05.2006, the petitioner appeared before the second respondent and gave her written submission. Thereafter, the second respondent without considering the written submission made by the petitioner, by an order dated 13.05.2006, proposed a punishment of dismissal from service on the petitioner and called for petitioner's further representation. In reply to that, the petitioner submitted further representation on 20.05.2006. Since the same was not satisfactory, the second respondent passed an order of dismissal from service against the petitioner on 24.05.2006. Aggrieved by the order dated 24.05.2006, the petitioner filed an appeal before the first respondent. The first respondent also dismissed the appeal and confirmed the order dated 24.05.2006. Challenging the same, this writ petition was filed.

3. Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. The learned counsel for the petitioner would submit that the petitioner was working as a cashier and she was working under the control of President and Secretary of the second respondent Society. Further he would submit that though the charge memo was issued based on the audit report, the said report was not furnished to the petitioner. While conducting enquiry, the petitioner sought for the document namely the audit report. However, the enquiry officer did not furnish the same to the petitioner and also did not give any opportunity to cross examine the witness of the Society and thereby, violated the principles of nature justice. The enquiry was not held properly. Therefore, the manner of enquiry is against the principles of natural justice and hence, the order of the first respondent is liable to be set aside. In support of his contention, he has relied upon the following judgments:

(a) Sur Enamel and Stamping Works Ltd vs. Workmen reported in AIR 1963 SC 1914;

(b) Central Bank of India vs. Prakash Chand Jain reported in AIR 1969 SC 983;

(c) Anil Kumar vs. Presiding Officer & Ors reported in 1985 3 SCC 378;

(d) Sawai Singh vs. State of Rajasthan reported in 1986 3 SCC 454;

(e) State of U.P. vs. Shatrughan Lal & Anr reported in 1998 6 SCC 651;

(f) V.Jayabalan vs. Govt of T.N. Reported in 2012 SCC Online Mad 658;

(g) Dr.S.Manimegalai, M.D. vs. The Director of Medical & Rural Health Services.

5. Learned Special Government Pleader appearing for the respondents would submit that the petitioner was working as a cashier in the second respondent society and without any verification on the voucher produced by the President and Secretary, she disbursed money to them and also made excess payment of bonus. A charge memo dated 13.06.2005 was issued to the petitioner and the petitioner has participated in the enquiry and all the witnesses were examined in the presence of the petitioner. Based on the enquiry report, the petitioner was called upon to submit her further representation. Accordingly, she submitted further representation on 06.04.2006 and she was personally heard on 03.05.2006. After considering all the documentary evidences, enquiry report submitted by the enquiry officer and the further representation submitted by the petitioner, the second respondent agreed with the findings of the enquiry officer and the second respondent passed the order of punishment of dismissal from service on 24.05.2006. Aggrieved by the same, the petitioner approached the first respondent by filing an appeal. After considering the entire facts, the first respondent confirmed the order of the second respondent dated 24.05.2006 by rejecting the appeal on 23.04.2007.

6. It is further submitted by the learned Special Government Pleader that the petitioner herself admitted that she gave money to the President and Secretary to the Society without proper voucher, since they are her senior officers. Sufficient opportunity was given to the petitioner to defend her case and as such, there is no violation of principles of natural justice. It is also submitted by the learned Special Government Pleader appearing for the respondents that there is no merit in this writ petition and it is liable to be dismissed.

7. Admittedly, the petitioner was working as a cashier in the second respondent Society and she disbursed money without proper verification on the vouchers submitted by the President and Secretary, as they are her senior officers. The duty of the

cashier is to examine the voucher given to her by each and every one for disbursal of money. Without examining the voucher, she was not supposed to disburse the money. However, the petitioner was called for explanations on every occasions before passing the final order by the second respondent.

8. On a perusal of the judgments relied upon by the learned counsel for the petitioner, it seems that the facts of the said cases are not similar to the facts of the instant case and hence, they are not applicable to the case on hand.

9. This Court does not find any perversity in the order passed by the second respondent as well as the first respondent. There is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Joint Registrar of Co-operative,
Societies,
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- 2.The Special Officer,
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+1 CC to M/s. Sai & Bhaskar, Advocate sr 39966.
+1 CC to The Government Pleader sr 40369.

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VSNI (CO)
SP(19/01/2021)