

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.12710 of 2010
and M.P.No.1 of 2010

P.Rajaram

... Petitioner

-vs-

1. The Regional Joint Registrar of Cooperative Society,
Cuddalore.

2. The Special Officer,
Veeranandapuram,
Primary Agricultural Cooperative Bank,
Kattumannargudi, Cuddalore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records culminating in the order dated 14.08.2009 of the 1st respondent made in Na.Ka.No.26/2009, Thu.Va.Tha.1 and quash the same.

For Petitioner : Ms.Shahana Fathima
For Mr.R.Gopinath

For R1 : Mrs.T.Girija
Addl. Govt. Pleader (Co-operatives)

For R2 : Mr.M.S.Palanisamy

O R D E R

The Writ Petition has been filed, seeking to quash the order dated 14.08.2009 of the 1st respondent made in Na.Ka.No.26/2009, Thu.Va.Tha.1, in and by which, the revision petition filed under Section 153 of the Cooperative Societies Act, against the order of termination of his service passed by the 2nd respondent, has been rejected by the 1st respondent.

2. The case of the petitioner is that he was inducted into the service of the 2nd respondent on 02.03.1994 and has put on 15 years of service. On the false allegation of short fall of remittance and stock deficit during flying squad inspection on

10.07.2008, he was placed under suspension on 11.07.2008 and charges were framed against the petitioner. It is the further case of the petitioner that though he had submitted a detailed explanation on 14.08.2008 and participated in the domestic enquiry, to his shock, he was terminated from service by the 2nd respondent by an order dated 07.11.2008. Aggrieved by the said order, he chose to file a Review Petition before the 1st respondent under Section 153 of the Cooperative Societies Act and the same was dismissed by the 1st respondent, against which, the petitioner has preferred the present Writ Petition.

3. The 1st respondent has filed a counter affidavit, in which it has been stated that during surprise inspection, it was found that there was a deficit of stock to the value of Rs.23,282/- which had resulted in suspending the petitioner on 11.07.2008 and in the domestic enquiry, the allegation of misappropriation of fund stood proved against the petitioner. It has been further stated that since the guilt was proved, the 2nd respondent has no other option, but to impose the quantum of punishment, namely, dismissal from service. In the revision, the 1st respondent, finding no favourable material against the petitioner, confirmed the order of the 2nd respondent, which does not want any interference by this Court.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. Learned counsel for the petitioner, at the time of argument, has urged that the petitioner has not been paid any subsistence allowance and on that score, the impugned order of termination is liable to be set aside and he is entitled to all the monetary benefits. It was also stated that since the amount pointed out by the respondents has already been paid, the imposition of major punishment is detrimental and therefore, the learned counsel sought to interfere with the punishment and to order lesser punishment in lieu of the one that was imposed by the 2nd respondent.

6. Learned Additional Government Pleader appearing for R1 contended that serious charges have been framed against the petitioner and in the enquiry, charges have been established, for which he was suspended from service on 11.07.2008. It was also contended that before the Enquiry Officer, the petitioner confessed to his guilt that he was responsible for the loss caused to the Society and also agreed to pay the amount, stating that as his wife was admitted in the hospital, he did not remit the amount immediately.

7. A reading of the charges established in the Domestic Enquiry, which has been confirmed by the 1st respondent under Section 153 of the Cooperative Societies Act, discloses that the petitioner was involved in the incident for shortage of stocks. It was also found by the Management that there has been duplicate receipts created for the purpose of misappropriation. It is no doubt true that in case of non payment of subsistence allowance, the entire domestic enquiry has got to be set aside. But, in this case, there is not even a plea taken by the petitioner at any stage that no subsistence allowance was paid. Though it was stated in the explanation submitted by the petitioner that his family is in indigenous circumstances on account of his suspension, he had nowhere stated that the subsistence allowance has not been paid. Even before the Authority, such plea of non payment of subsistence allowance was taken and therefore, I find no ground to interfere with the order of the 2nd respondent, which has been confirmed by the 1st respondent and this Court do not want to substitute the punishment imposed by the Management, in a petition filed under Article 226 of the Constitution of India. Hence, the Writ Petition, being devoid of merits, is liable to be dismissed.

8. Accordingly, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To:

1.The Regional Joint Registrar of Cooperative Society,
Cuddalore.

2.The Special Officer,
Veeranandapuram,
Primary Agricultural Cooperative Bank,
Kattumannargudi, Cuddalore District.

+1cc to Mr.R.Gophinath, Advocate Sr.25138
+1cc to the Government Pleader Sr.25210

W.P.No.12710 of 2010

mp[co]
srg 22/10/2020