

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. 3676 of 2013

K.A.Gurusekar

... Petitioner

Vs

1. The Registrar of Cooperative Societies,
N.V.Natarajan Maligai,
Kilpauk, Chennai-600 010.
 2. The Joint Registrar (I.A.A.P.),
Office of the Registrar of
Cooperative Societies Office,
N.V.Natarajan Maligai,
Kilpauk, Chennai-600 010.
 3. The Joint Registrar,
O/o. The Joint Registrar of
Cooperative Societies,
Sivagangai,
Sivagangai District.
 4. The Deputy Registrar of Cooperative
Societies (PDS), Sivagangai,
Sivagangai District.
- ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 4th respondent in proceedings No.RC.Na.Ka.5053/94PDS(4), dated 31.08.1995 and subsequent confirmation order issued by the 3rd respondent in Proceedings in Na.Ka.No.1341/96 Pa.Tho dated 24.07.2001 and quash these orders and consequently direct the respondent to include the name of the petitioner in the panel dated 01.05.1995 for promotion of the post of Senior Inspector of Cooperative Sub-Registrar in the retrospective effect and monitoring other consecutive service benefit.

For Petitioner
For Respondents

: Mr.Dalit Tiger C.Ponnusamy
: Mr.L.P.Shanmugasundaram,
Special Govt. Pleader (Coop.)

O R D E R

This Writ Petition has been filed challenging the order of punishment of stoppage of increment for a period of six months with cumulative effect from 31.08.1995.

2. The brief facts leading to the filing of this Writ Petition is that, when the petitioner was working as a Special Officer in Aravikottai Primary Agricultural Cooperative society, in the year 1995, a disciplinary proceedings has been initiated against him alleging that, he had given promotion, and pay fixation to the staffs working in the cooperative society in violation of circular issued by the Registrar of Cooperative Societies dated 23.05.1995. The first charge leveled against the petitioner was that, he has given promotion to one Rathinam, who was working as a Salesman to the post of Clerk, without proper approval from the Deputy Registrar, and also fixed the salary against Sec. 18(1) settlement entered between employer and employees. The second charge was that, he has regularised the services of daily wages viz., Ms. Manimegalai and Ms. Thirugnanavalli, and also fixed the pay without obtaining permission from the Deputy Registrar. The third charge was that, he has given promotion to one Seethalakshmi, who was working as Assistant and revised the scale of pay without proper approval from the Deputy Registrar, which is against the circular issued by the Registrar of Cooperative Societies.

3. After issuing the charge memo and obtaining reply from the petitioner, a detailed enquiry was conducted. According to the petitioner, only based on the recommendation of Secretary of the Society, he has given promotion to one Rathinam on 01.05.1993, and it was sent for approval from the Deputy Registrar, and was pending. So far as the second charge is concerned, as per 18(1) settlement, basic salary for the post of Clerk is only Rs.575/-, whereas the petitioner has fixed the basic salary as Rs.750/- without getting proper approval from the Deputy Registrar, and the explanation of the petitioner was that, he has sent the proposal for approval from the Deputy Registrar, and awaiting the approval. However, the enquiry officer after considering entire materials has held that, the petitioner did not fix the basic pay as per the 18(1) settlement, and the same is against the circular issued by the Registrar of Cooperative Societies.

4. In respect of third charge, according to the petitioner, he has sent the proposal to the Deputy Registrar, he was awaiting approval, but the approval was not granted to him. The enquiry officer has held that, the basic scale of pay for the post of clerk is only Rs.575/-, whereas, the petitioner has fixed the salary as Rs.750/-, which is against the circular issued by the Registrar of Cooperative Societies, and under 18(1) settlement. That apart, while giving promotion and regularisation, the petitioner has thoroughly ignored the

circular issued by Registrar of Cooperative Societies and fixed the salary without obtaining proper approval from the Deputy Registrar, and the enquiry officer has held all the charges are proved.

5. Thereafter, the Deputy Registrar of Cooperative Societies, the 4th respondent herein, after furnishing the copy enquiry report, and after obtaining further explanation, had passed a detailed order, thereby held that all the charges are proved, and imposed minor punishment of stoppage of increment for the period of six months with cumulative effect.

6. Challenging the above order, the petitioner has preferred an appeal before the Joint Registrar of Cooperative Societies, the 3rd respondent herein. The appellate authority after considering all those materials, including the objections raised by the petitioner, had passed a detailed order, thereby confirmed the order passed by the disciplinary authority, and dismissed the appeal by an order dated 24.07.2001. Challenging the same, after lapse of 11 years, the present Writ Petition has been filed.

7. Mr. Dalit Tiger C. Ponnusamy, learned counsel appearing for petitioner would vehemently contend that, as the 4th respondent Deputy Registrar is not the appointing authority or disciplinary authority, he has no power to initiate disciplinary proceedings. Hence, the entire proceedings is without jurisdiction and void. That apart, both the disciplinary authority and the appellate authority did not consider the objections raised by the petitioner in proper perspective. The petitioner has given promotion only with the bonafide intention to give employment to the incumbent, and fixed the pay as per 18(1) settlement as well as circular issued by Registrar of Cooperative Societies. Absolutely, there is no irregularity committed by the petitioner. But, without considering the same, the punishment was imposed.

8. Per contra, Mr. L.P. Shanmugasundaram, learned Special Government Pleader appearing for respondents would contend that, the Deputy Registrar is the appointing as well as disciplinary authority for the petitioner empowered to initiate disciplinary proceedings against the petitioner. Earlier, the petitioner was appointed temporarily as Junior Inspector. Thereafter, his service was regularised by the 4th respondent, and appointed him as Cooperative Sub-Registrar. It is only the 4th respondent is the disciplinary authority and also produced relevant rules to substantiate the same. According to the learned counsel, the petitioner has unilaterally regularised the services of daily wages, and given promotion and also scale of pay without following 18(1) settlement, without obtaining proper approval from the Deputy Registrar. During the disciplinary proceedings, all the legal formalities have been followed, and sufficient opportunity was given to the petitioner. After considering the objection as

well as explanation, the enquiry officer has held that the charges are proved. The disciplinary authority also, after considering the materials, accepted the report of Enquiry Officer, and imposed minor punishment of stoppage of increment for six months only. The appeal filed by the petitioner was dismissed by the Joint Registrar after considering all the grounds raised by the petitioner elaborately. According to the learned counsel, the Writ Petition is liable to be dismissed on the ground of laches. The appellate authority has passed the order on 24.07.2001, whereas the Writ Petition was filed only in the year 2013 after lapse of 12 years. Absolutely there is no explanation was given by the petitioner for the delay in filing the Writ Petition.

9. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Special Government Pleader appearing for respondents and perused the records carefully.

10. The enquiry officer, after considering the entire available materials and relevant 18(1) settlement and the circulars issued by the Registrar of Cooperative Societies, came to a conclusion that the charges are proved. Thereafter, the copy of enquiry report was served on to the petitioner and sought for further explanation. Finally, after considering all the materials, the disciplinary authority has confirmed the findings of the enquiry officer, and held charges are proved, and imposed minor penalty. The appeal filed by the petitioner was also elaborately considered by the 3rd respondent Joint Registrar, and all the grounds raised by the petitioner were carefully considered, and dismissed the appeal. I have also gone through the entire records, I find no illegality or irregularity in the order passed by the disciplinary authority as well as appellate authority.

11. So far as the contention of the learned counsel appearing for petitioner regarding the power of Deputy Registrar to initiate disciplinary proceedings, it is an admitted fact that the petitioner was appointed by the 4th respondent society and the 4th respondent has only regularised his service, and as per the service rules, the Deputy Registrar, is an appointing authority as well as disciplinary authority. In the above circumstances, the petitioner's contentions cannot be countenanced. That apart, the petitioner has clearly admitted that, all the regularisation and pay fixation was done without obtaining proper approval from the Deputy Registrar. Considering the above circumstances, the disciplinary authority has only imposed minor penalty of stoppage of increment for six months with cumulative effect. I find no illegality in imposing punishment. That apart, as rightly contended by Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for respondents that, the disciplinary authority had passed the order in the year 1995, and the appellate authority has dismissed the appeal in the

year 2001, after 12 years, the Writ Petition has been filed. Challenging the above said order, absolutely there is no explanation for the delay. Hence, the Writ Petition is liable to be dismissed on the ground of laches also. Considering the above circumstances, I find no merit in this Writ Petition, and the Writ Petition is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar (Co-Mud)

//True copy//

Sub Assistant Registrar

rpp

To

1. The Registrar of Cooperative Societies,
N.V.Natarajan Maligai,
Kilpauk, Chennai-600 010.
2. The Joint Registrar (I.A.A.P.),
Office of the Registrar of
Cooperative Societies Office,
N.V.Natarajan Maligai,
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3. The Joint Registrar,
O/o. The Joint Registrar of
Cooperative Societies,
Sivagangai,
Sivagangai District.
4. The Deputy Registrar of Cooperative
Societies (PDS), Sivagangai,
Sivagangai District.

+1cc to M/s. Dalit Tiger C.Ponnusamy, Advocate SR.No.

+1cc to Special Government Pleader SR.No.21140

W.P. 3676 of 2013

AK(CO)
GMY(19/06/2020)