

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.32107 of 2016
and WMP.No.27766 of 2016

C.Perumal

... Petitioner

Vs.

- 1.The Deputy Registrar of Co-operative Societies,
Krishnagiri Circle,
Krishnagiri District.
- 2.The Managing Director,
Dharmapuri District Central Co-operative Bank Ltd.,
Nethaji Bye Pass Road,
Dharmapuri, Dharmapuri District.

.. Respondents

Petition filed under Article 226 of Constitution of India praying for issuance of a writ of Certiorari, calling for the records relating to the impugned proceedings issued by the 2nd respondent in Surcharge order issued by the 2nd respondent in No.6/2007 sa.pa.1 dated 24.07.2008, as confirmed in the Co-operative Tribunal (Principal District Court), Krishnagiri in C.M.A.No.1 of 2010 dated 30.06.2016 and to quash the same with cost payable to the petitioner.

For Petitioners ... Mr.G.Sankaran

For Respondents ... Mr.V.Selvaraj
Addl.Govt.Pleader.

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. According to the petitioner, he was employed as Supervisor in the 2nd respondent/Co-operative Bank and he retired from service on 30.06.2005. While the petitioner was in service, he was posted as Supervisor of Pochampalli Circle of DDCCB for the period from 13.01.1997 to 30.07.1982 and one KK 252 Veeramalai PACB comes under Pochampalli Circle. The petitioner was issued with surcharge notice under section 87(1) of the Act on 29.10.2007 in respect of item No.3 relates to disbursement of Milch Animal Loan for 3 persons. Out of three loans, only one loan No.317 dated 21.03.1998 was recommended to be sanctioned by the petitioner and other two loans are not connected to the petitioner, since he was not working as Pochampalli Circle Supervisor on the date of sanctioning of the said loans. The petitioner submitted an explanation on 29.12.2007, whereas the second respondent issued surcharge order on 24.07.2008 even without dismissing or adjudicating what is stated in the explanation holding him jointly responsible for the loans of society in respect of 3 Milch Animal Loan sanctioned. The petitioner has filed an appeal before the Co-operative Tribunal in C.M.A.No.1 of 2010 and the same was dismissed on

30.03.2016. Thereafter, the petitioner has given an explanation to the first respondent dated 29.10.2017. The said explanation has not been considered and hence, the present writ petition has been filed challenging the surcharge order dated 24.07.2008 passed by the second respondent.

3. According to the learned counsel for the petitioner, one K.Poonngavanam, Circle Supervisor and N.Chinnavan, Branch Manager, who are co-employees and they have filed C.M.A.Nos.7 of 2009 and 33 of 2008 challenging the Surcharge order issued against them. Award passed by the Deputy Registrar of Co-operative Societies, Krishnagiri, in Surcharge Case No.6/2007/Sa.Pa.1, dated 24.07.2008 was set aside by the Tribunal in the aforesaid appeal and the matter was remanded back to the first respondent for fresh disposal. The first respondent was also directed to give opportunity to the appellant to peruse the records as well as the copy of the enquiry report under Section 81 of the Tamil nadu Co-operative Societies Act. In the light of the above said order, no departmental action would be initiated against the petitioner and was also inducted. Hence, he prays for setting aside the order passed by the tribunal.

4. The learned Government Advocate appearing for the respondents would submit that the subsequent to the order passed by the tribunal in the

appeals filed by the employees, the matters were remanded back to the first respondent for furnishing the copy of the enquiry report. Hence this petitioner may also given the same relief.

5. In view of the submissions made by the petitioner and the respondents and in the light of the order passed by the Tribunal in C.M.A.No.1 of 2010 the impugned order passed by the first respondent as well as the order passed by the Tribunal are set aside and the matter is remanded back to the first respondent for fresh disposal after furnishing the copy of the enquiry report to the petitioner .

6. It is open to the petitioner to raise all the legal grounds before the first respondent.

7. The writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non Speaking Order
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To

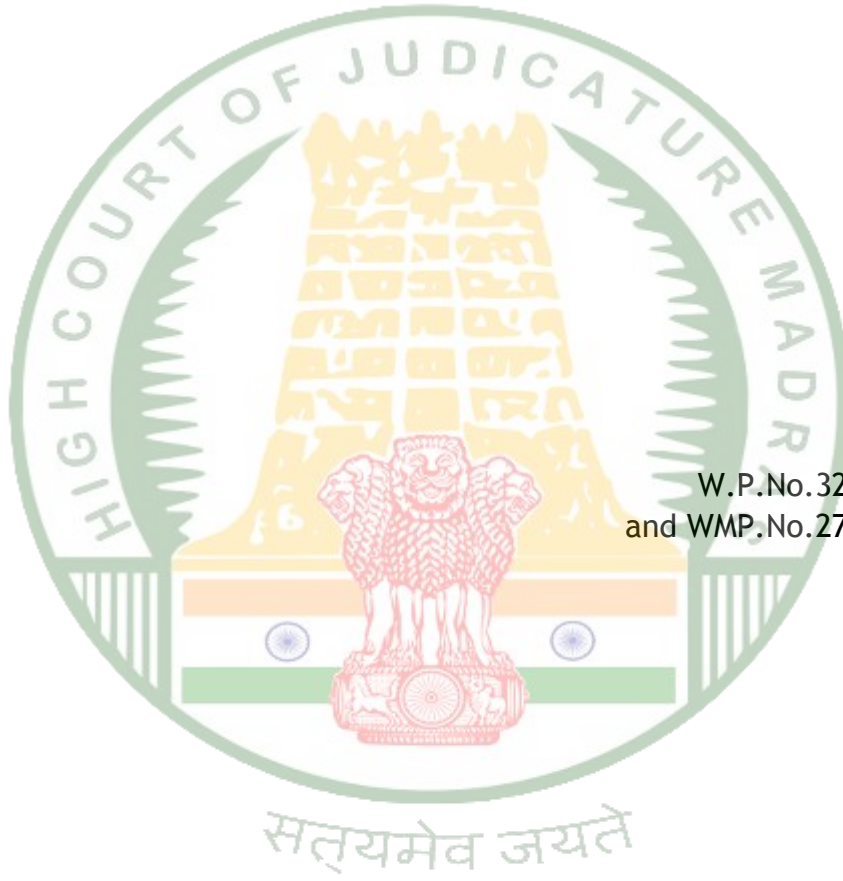
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