



IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 05.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A.No.1315 of 2013 and M.P. Nos.1 & 2 of 2013

The Special Officer,
Tambaram Co-operative Urban Bank Ltd.,
No.14, Venkatesa Choudry Street,
Tambaram (West),
Chennai - 600 045.

...Appellant/1st Respondent

versus

1. Kuppuswamy

...1st Respondent/Petitioner

2. The Joint Registrar of Co-operative Societies,
Kancheepuram Region,
No.16, M.M.Avenue,
Kancheepuram - 631 501.

3. The Registrar of Co-operative Societies,
State of Tamil Nadu,
No.170, Periyar E.V.R.Salai,
Kilpauk,
Chennai - 600 010.

...Respondents/Respondents

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 23.02.2012 passed by the Hon'ble Mr.Justice K.N.Basha made in W.P. No.6976 of 2006.

Prayer in W.P.No.6976 of 2006:- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified Mandamus to call for the records of the 2nd respondent dated 30.11.2004 in Na.Ka.9571/2003 A3 confirming the order of the first respondent dated 04.08.2003 in Na.Ka.1/2002 TA and quash the same and direct the respondents to give all service benefits to the petitioner.

For Appellant : Ms.T.P.Savitha
For Respondents : Mr.R.Mubarak Basha for R1
Mr.V.Manoharan,
Government Advocate
for R2 and R3



JUDGMENT

(Judgment of this Court was delivered by T.RAJA,J.)

This writ appeal has been filed against the impugned order dated 23.02.2012 passed in W.P. No.6976 of 2006.

2.Learned counsel appearing for the appellant argued that when the first respondent filed a suit in O.S. No.62 of 2001 on the file of the Subordinate Court, Kancheepuram, which was subsequently transferred to the District Munsif Court, Kancheepuram and re-numbered as O.S. No.409 of 2004, has unnecessarily implicated the Joint Registrar of Co-operative Societies, Kancheepuram Region, the second respondent herein as a party to the above suit and dragged him to the Civil Court, though no relief has been sought for against the Joint Registrar. Finally, the above Suit was dismissed as devoid of merits. Similarly, the first respondent used to file several cases one after another against the Society and the officers incharge of the Society, thereby, wasting the precious time of the Department, Besides, he has also not seriously discharged his duties by taking steps to recover the loan from the debtors. Therefore, three charges were framed against him vide charge memo dated 10.10.2002. Being not satisfied with the explanation offered by the first respondent, the Enquiry Officer, after giving reasonable and fair opportunities to the first respondent, submitted his report on 30.06.2003 finding him guilty of all three charges on completion of the enquiry. Ultimately, the Special Officer incharge of the appellant society imposed the punishment of stoppage of increment for two years with cumulative effect. Challenging the said punishment, the first respondent has filed a Revision under Section 153 of the Tamil Nadu Co-operative Societies Act. Aggrieved by the dismissal of the said Revision, the first respondent has come to this Court with the above Writ Petition. This Court, by order dated 23.02.2012, finding fault with the method adopted for initiating departmental proceedings and quashing the same, held that the principles of natural justice have not been followed while holding departmental proceedings. When the first respondent, has, admittedly harassed the appellant Society by filing dozen of frivolous cases against the appellant Society for the reasons best known to him, it is for the appellant Society headed by the Special Officer to regulate the administration of the society, therefore, the appellant Society, finding that the first respondent was responsible for wasting the precious time of the appellant society dragging the Society to the Court very often and also not seriously taking any steps to redeem the loan advanced to the members of the Society, initiated departmental proceedings that cannot be found fault with. Learned counsel for the appellant further submitted that



although the first respondent was imposed with the punishment of stoppage of increment for two years with cumulative effect which is a minor punishment, showing leniency, the learned Single Judge could not have interfered with the order passed by the appellant Society since similarly placed persons as that of the first respondent may also come to this Court seeking the similar relief. Therefore, the impugned order is liable to be set aside.

3.Mr.R.Mubarak Basha, learned counsel appearing for the first respondent submitted that this is not an appeal, where the Society should come to this Court questioning the order passed by the learned Single Judge. When the first respondent was working in the Society, for no reason, he was un-necessarily harassed by the appellant. Since the nature of charges framed against the first respondent and the method adopted to impose the punishment have been properly perused by this Court, before passing the order quashing the order of punishment, the order passed by the learned Single Judge cannot be interfered with. Moreover, when the first respondent sought remedy through the Court of law to redress his grievances, he cannot be found fault with. Moreover, the dismissal of the suit cannot be a ground to initiate departmental proceedings. In any event, since the first respondent, on reaching the age of superannuation, retired from service on 31.08.2011, he may be allowed to have his peaceful retiral life.

4.We find merits on the submission. However, the first respondent retired a decade ago and the impugned order setting aside the punishment was passed in the year 2012. The learned Single Judge, finding fault with the charges framed against the first respondent and the method adopted to hold enquiry to impose the punishment, allowed the writ petition. As the first respondent had already reached the age of superannuation on 31.08.2011 and received the retiral benefits long time ago, we do not find any merit in this appeal. Accordingly, this appeal stands dismissed. Consequently, connected M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vga



To

1. The Joint Registrar of Co-operative Societies,
Kancheepuram Region,
No.16, M.M.Avenue,
Kancheepuram - 631 501.
2. The Registrar of Co-operative Societies,
State of Tamil Nadu,
No.170, Periyar E.V.R.Salai,
Kilpauk, Chennai - 600 010.

+1cc to M/s.R.Mubarak Basha, Advocate, S.R.No.38734
+1cc to M/s.T.P.Savitha, Advocate, S.R.No.38705
+1cc to the Government Pleader, S.R.No.39105

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