

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.8981 OF 2015

K.Gopal

...Petitioner

Vs

1. State of Tamil Nadu rep. by its
The Joint Registrar of Cooperative Societies/
Revisional Authority,
Salem Region, Salem.
 2. The Deputy Registrar/Administrator,
S-439, Salem Agircultural Producers
Co-op Sales Society, Salem.
- ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order No.Na.Ka.No.2818/2012/ Po.Vi.Di.2 dated 09.05.2013 issued by the second respondent read with the Order No.Na.Ka.7047/13.Sa.pa, dated 03.04.2014 as confirmed by the 1st respondent's order Na.Ka.528j52/2014 sapa, dated 29.09.2014 and quash the same and consequently direct the second respondent to reinstate the petitioner with all attendant service benefits, including monetary benefits.

For Petitioner : Ms.S.T.Kuilmozhi

For Respondents: Mr.L.P.Shanmuga Sundaram,
Spl.Government Pleader for Co.Op

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O R D E R

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

2. The petitioner herein, while employed as a Salesman in the fair price shop attached to the respondent Society, was imputed with certain charges to the effect that there was deficit of controlled goods valued about Rs.346.60/- and

uncontrolled goods worth about Rs.2,200.55/-. Based on the charges, the second respondent herein had dismissed the petitioner from his services, after conducting an enquiry, through the order dated 09.05.2013. As against the order of the second respondent, the petitioner herein filed a Review Petition before the first respondent, which was also rejected on 29.09.2014. Aggrieved against the same, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the punishment of dismissal is disproportionate to the charges. According to the learned counsel for the petitioner, the shortage of the goods in the fair price shop was within the permissible limits and even otherwise, the value of the shortages was very minimal and therefore, the punishment of dismissal is improper.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioner herein is an habitual delinquent and that on five earlier occasions, he was found guilty of certain charges and was subjected to various punishments during his service. In view of his habitual delinquencies, the respondents have rightly passed the order of dismissal and therefore, he would submit that no interference is required to the dismissal order.

5. I have given careful consideration to the submissions made by the respective counsels.

6. It is not in dispute that the value of shortages of the deficit goods were within the permissible limits. As per the charges, the Special Officer of the Society had detected deficits of the goods to the value of Rs.346.60/- and Rs.2,200.55/-. When the value itself is minimal and is also within the permissible limits, a punishment of dismissal from service is grossly disproportionate to the charges. It is a well established position of law that the punishment must commensurate in proportion to the gravity of the charges. As a matter of fact, when the first respondent had conducted the revision proceedings, the second respondent herein had given a statement that the punishment of dismissal was disproportionate to the charges, which was recorded in the impugned order itself. As such, the order of the Revisional Authority, disregarding such a statement as well as failing to evaluate the proportionateness of the charges with the punishment, cannot be sustained.

7. The learned Special Government Pleader had placed reliance on the earlier punishments imposed against the

petitioner and therefore submitted that the order of dismissal was rightly passed.

8. I am not in agreement with such a submission. May be, the petitioner was subjected to earlier punishments for other delinquencies, but, there was no justification on the part of the respondents herein to take such punishments into consideration for the purpose of imposing the maximum punishment of dismissal, which may amount to double jeopardy. Such a conduct of referring to the earlier punishments cannot be ratified.

9. In this background, the order of dismissal passed by the second respondent herein, as confirmed by the Revisional Authority, cannot be sustained.

10. The petitioner, though would be entitled for reinstatement, since the punishment is disproportionate to the charges, may not be entitled for the back wages, since this Court has not found fault with the decision making process of the Disciplinary Authority as well the Revisional Authority. As such, the relief for payment of back wages to the petitioner from the date of his dismissal, is rejected. However, the petitioner would be entitled for all other service benefits.

11. In the light of the above observations, the impugned orders dated 03.04.2014 and 29.09.2014 are quashed and the respondents herein are directed to reinstate the petitioner forthwith back into service, without any back wages or monetary benefits, but with all other service benefits.

12. The writ petition stands allowed accordingly. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Joint Registrar of Cooperative Societies/
Revisional Authority, State of Tamil Nadu,
Salem Region, Salem.

2. The Deputy Registrar/Administrator,
S-439, Salem Agircultural Producers
Co-op Sales Society, Salem.

+1cc to Ms.S.T.Kuilmozhi, Advocate, S.R.No.23788

+1cc to the Spl.Government Pleader, S.R.No.23990

W.P.No.8981 of 2015

SSN(CO)
CS/28/06/2021



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