



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.11230 of 2014

and W.M.P. (MD)No.11060 of 2019

A.Mookan

... Petitioner

vs.

1.The Joint Registrar,
Office of the Joint Registrar of Co-Operative Societies,
Theni.

2.The Special Officer,
DD 110, Veerapandi Primary Agricultural
Co-Op. Credit Society,
Veerapandi, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent on 31.05.2013 made in Revision Petition No.5 of 2012 and quash the same.

For Petitioner : Mr.Alagappan
For Respondents : Mr.R.Ragavendran
Government Advocate

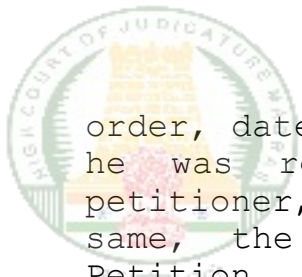
O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned order passed by the first respondent, dated 31.05.2013, in the Revision Petition filed by the petitioner.

2.Heard Mr.Alagappan, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents.

3.Brief facts that are necessary for the disposal of this Writ Petition are as follows:

3.1.The petitioner was appointed as a Salesman in a Fair Price Shop in Mariamman KovilPatti. It is stated by the petitioner that he was also in-charge of another Fair Price Shop in Thiruchendur from 01.09.2009. While the petitioner was in service, he was issued with a charge memo alleging that he has misappropriated a sum of Rs.41,908.00/- Thereafter, he was placed under suspension by an



order, dated 16.11.2010, pursuant to the charge memo and thereafter, he was removed from service, even though, according to the petitioner, there was no loss caused to the Society. As against the same, the petitioner has come forward with the present Writ Petition.

WEB COPY

4.The petitioner himself has admitted his guilt and made the payment to make good the loss on account of the irregularities committed by him. Having admitted before the respondents that the charges are true, the petitioner cannot plead that the punishment is unwarranted on the ground that there was no loss caused to the Society. From the charge memo, enquiry report and the explanation offered by the petitioner, it is seen that the charges levelled against the petitioner stand proved especially, when the petitioner himself has paid a sum of Rs.44,908.96/-. It is seen that the charges against the petitioner was for several irregularities, like falsification of records, utilising the bills by bogus entries, etc.

5.There was no explanation for the charges framed against the petitioner. Merely by stating that the petitioner has paid the entire amount which was equal to the deficiencies pointed out by the respondents, the petitioner cannot escape from the punishment. The petitioner had sufficient opportunity before the respondents during the enquiry and the disciplinary proceedings were conducted after following due process of law. Therefore, there is no irregularity in the decision making process.

6.Learned Counsel appearing for the petitioner submitted that the petitioner has already paid the entire amount which according to the respondents was misappropriated by the petitioner. The irregularity committed by the petitioner has caused not only financial loss but also led to other consequences. The respondents were put to financial loss due to the misconduct committed by the petitioner. After some time, the petitioner voluntarily made good the loss, which was on account of the irregularities committed by the petitioner. The disciplinary proceedings was rightly initiated against the petitioner.

5.The payment of entire amount alleged to have been misappropriated by the petitioner only proves the charge against the petitioner. May be, the petitioner has repaid the money which he had misappropriated. A temporary misappropriation is also a serious misconduct attracting major punishment. When the petitioner has admitted his guilt by remitting the entire amount, the petitioner cannot contend, as if he has no responsibility or accountability to the respondents beyond the payment. It is quite surprising to note that the petitioner has come forward with a Writ Petition to set aside the order of punishment which is valid and does not suffer from any illegality. The voluntary payment made by the petitioner is not sufficient to exonerate the petitioner from the charges,



particularly when the respondents have lost faith in the petitioner.

6. In the stated circumstances, this Court is unable to show any lenience or sympathy. When the petitioner admits the grave charge of misappropriation, he cannot expect the respondents to exonerate him from the grave misconduct. This Court finds no merits in this Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1. The Joint Registrar,
Office of the Joint Registrar of Co-op. Societies,
Theni.

2. The Special Officer,
DD 110, Veerapandi Primary Agricultural
Co-Op. Credit Society,
Veerapandi, Theni District.

+1 CC to M/s.SPL.GP (SR-33034[F] dated 28/10/2021)

+1 CC to M/s.M.ALAGAPPAN, Advocate (SR-32663[F] dated 26/10/2021)

Order made in
W.P. (MD) No. 11230 of 2014
26.10.2021

DJ(CO)
TR/JGP(16.11.2021) 3P 5C