



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.25331 of 2018

S.Manavalan

... Petitioner

vs.

1.The Regional Joint Registrar,
O/o.The Joint Registrar of Co-operative Societies,
District Collectorate,
Dindigul.

2.The Joint Registrar / Managing Director,
Head Office,
Dindigul Central Co-operative Bank Limited,
Kotturavu Nagar, Dindigul - 624 005.

3.The President,
Head Office,
Dindigul Central Co-operative Bank Limited,
Kotturavu Nagar,
Dindigul - 624 005.

4.The Registrar of Co-operative Societies,
No.170, E.V.R.Road, Natarajan Maaligai,
Kilpauk,
Chennai - 600 010.

5.The Deputy Registrar of Co-operative Societies,
O/o.Deputy Registrar of Co-operative Societies,
R.M.Colony, Dindigul.

... Respondents

(R 4 & R 5 are impleaded vide order
dated 13.11.2019 made in
W.M.P(MD)No.19444 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondents resulting in the second respondent's impugned order dated 04.08.2018 passed in Na.Ka.No.212/2011-12/Pa.1 and quash the same and direction directing the respondents to pay all attendant and monetary benefits including backwages and treat the period from date of dismissal till the date of actual reinstatement as on duty and grant any other reliefs as legally entitled by the petitioner.

For Petitioner	: Mr.V.R.Venkatesan
For RR 1, 3 to 5	: Mr.P.Subbaraj
	Government Advocate
For R - 2	: Mr.S.Seenivasagam
	No appearance



ORDER

The petitioner has filed the present Writ Petition, to quash the impugned order of the second respondent, dated 04.08.2018 and to direct the respondents to pay all attendant and monetary benefits including backwages and treat the period from date of dismissal till the date of actual reinstatement as on duty.

2. According to the petitioner, while he was working as a General Manager in the third respondent Society, a charge-memo, dated 29.04.2017 was issued to him. The petitioner submitted his explanation. The domestic enquiry was conducted and the petitioner participated in the enquiry. The enquiry officer submitted his report holding that the charges levelled against the petitioner were proved. A second show-cause notice was issued to the petitioner and he submitted his explanation. In addition to that, personal hearing was given to him by the second respondent. During the personal hearing, the petitioner admitted that opportunity was given to him in the domestic enquiry, but denied the charges levelled against him and submitted written explanation to the second respondent. The second respondent passed the impugned order, dated 04.08.2018, dismissing the petitioner from service holding that there is no mitigating circumstances for lesser punishment. Challenging the impugned order of dismissal, the petitioner has filed the present Writ Petition.

3. The petitioner raised various grounds on merits. The learned counsel appearing for the petitioner extensively referred to various averments made in the affidavit and also the grounds raised in the present Writ Petition.

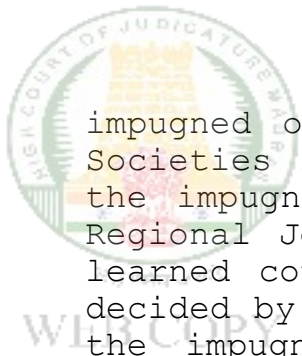
4. Though the second respondent entered appearance through counsel, there is no representation for the second respondent today.

5. The second respondent filed counter-affidavit and denied various averments made in the affidavit filed by the petitioner.

6. Mr. P. Subbaraj, learned Government Advocate appearing for the respondents 1, 3 to 5 also referred to the counter-affidavit. The petitioner has filed re-joinder to the counter-affidavit.

7. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1, 3 to 5 and perused the entire materials available on record.

8. Considering the above rival submissions and materials on record, it is seen that apart from raising various grounds on merits, the petitioner has filed the present Writ Petition without exhausting the remedy of revision available under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, on the ground that the



impugned order was passed by the Joint Registrar of Co-operative Societies in his capacity of Managing Director of the Bank and in the impugned order, it has been stated that revision lies to the Regional Joint Registrar of Co-operative Society. According to the learned counsel for the petitioner, an appeal cannot be heard and decided by the Officer of the equal rank of the officer, who passed the impugned order. This contention is without merits. As per Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, a revision filed against the order passed by any officer lies to the Registrar of Co-operative Societies.

9. Section 153 of the Tamil Nadu Co-operative Societies Act, reads as follows:-

"153. Revision. __ (1) The Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the board or any officer of a registered society or of the competent authority constituted under sub-section (3) of section 75 and the Government may, of their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the rules or the bylaws not being a proceeding in respect of which an appeal to the Tribunal is provided by subsection (1) of section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if, in any case, it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly:

Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representations.

(3) The Registrar or the Government, as the case may be, may suspend the execution of the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof

(4) The Registrar or the Government may award costs in any proceedings under this section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the



Government may deem fit."

A reading of this Section makes it clear that a revision can be filed before the fourth respondent and the fourth respondent on such application or *suo motu* consider and pass orders, on any of the orders passed by its Subordinates.

10.In view of the Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, where revision can be filed to the Registrar of Co-operative Societies against the order passed by any of his Subordinates, the petitioner is entitled to file revision before the fourth respondent challenging the impugned order, dated 04.08.2018, which is passed by the Joint Registrar of Co-operative Societies in his capacity as Managing Director of the Bank.

11.For the above reasons, without deciding the issue on merits, the Writ Petition is dismissed. It is open to the petitioner to file a revision before the fourth respondent raising all the grounds now raised in the Writ Petition. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Regional Joint Registrar,
O/o.The Joint Registrar of Co-operative Societies,
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Dindigul.

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5.The Deputy Registrar of Co-operative Societies,
O/o.Deputy Registrar of Co-operative Societies,
R.M.Colony, Dindigul.

+1 CC to M/s.SPL GP (SR-22949[F] dated 16/07/2021)

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-23077[F] dated 19/07/2021

W.P (MD) No.25331 of 2018
15.07.2021

NS (CO)

KB(04.08.2021) 5P 8C