



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	22.03.2021
DELIVERED ON:	01.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.27133 of 2019

(Through Video Conference)

R.Nallaperumal

... Petitioner

Vs.

1) The Joint Registrar of Cooperative Societies,
Dindigul Region,
Dindigul.

2) The Managing Director,
Dindigul District Central Cooperative Bank Ltd.,
Kooturavu Nagar,
Trichy Road, Dindigul 5

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with the impugned order of punishment of reversion and postponement of Annual Increment issued by him in his proceedings in Na.Ka.No.212/2011-12/Pa.1 dated 4.09.2018 and consequential impugned order of rejection of revision passed by the 1st respondent in Na.Ka.4902/2018-Sa.Pa dated 22.11.2019 quash the both as arbitrary and illegal and consequently direct the respondent to include the petitioner's name in the panel for promotion to the post of General Manager for the year 2019-2020 with all attendant benefits.

For Petitioners : Mr.G.Thalaimutharasu

For R-1 : Mr.P.Mahendran,
Additional Government Pleader

For R-2 : Mr.S.Seenivasagam

O R D E R

The petitioner herein, while serving as Assistant General Manager at Dindigul Central Co-operative Bank, Dindigul was subjected to disciplinary action through a charge memo dated 29.04.2017 issued by the second respondent herein, alleging that he had colluded with the founders of the charitable trust and issued grading certificate to bogus self help groups, thereby enabling them to avail a loan and also swindled the loan dues collected from the members without remitting to the petitioner, thereby causing



financial loss to the Bank to the tune of Rs.2,70,16,850/-.

2. Pursuant to an enquiry, the alleged financial loss to the Bank was reduced to Rs.14,79,457/- and by an order dated 04.09.2018, the second respondent had passed the impugned order of punishment reverting the petitioner to the post of Manager from Assistant General Manager, together with postponement of annual increment for a period of four years. The revision filed before the first respondent was also dismissed on 22.11.2018. The present writ petition is against these orders of punishment.

3. The learned counsel for the petitioner had raised several grounds touching upon the evidences let in before the Enquiry Officer and submitted that the orders of punishment requires to be interfered with. The learned counsel also submitted that the charges against the petitioner are vague in nature and have been belatedly made.

4. Learned Additional Government Pleader appearing for the first respondent as well as the learned counsel appearing for the second respondent had placed reliance on the averments made in the counter affidavit and submitted that the charges are serious in nature and though such charges warrant serious punishment, he was imposed with a proportionately lesser punishment and therefore, no interference is required.

5. The scope of interference to a punishment imposed pursuant to the Departmental Enquiry, under Article 226 of the Constitution of India, is very limited. The Hon'ble Supreme Court in various decisions have held that the High Courts would not normally interfere with the findings of the Disciplinary Authorities, except in very few exceptions like no evidence or perversity or lack of authority,... etc. It is also held in such decisions that the High Court only questions the decision making process while deciding a writ petition challenging the punishments and not the decision itself.

6. In the case of ***Kuldeep Singh v.. Commissioner of Police and others*** reported in (1999) 2 SCC 10 such a scope has been discussed in the following manner:-

"6. It is no doubt true that the High Court under Article 226 or this Court under Article 32 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the Enquiry Officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the Appellate Authority. But this does not mean that in no



circumstance can the Court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictate of the superior authority.

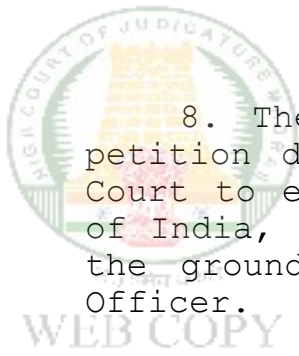
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9. Normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of "guilt" is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny.

10. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse, But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be the conclusions would not be treated as perverse and the findings would not be interfered with ".

7. Likewise in the case of **State of Uttar Pradesh vs. Man Mohan Nath Sinha and another** reported in (2009) 8 SCC 310 , the power of judicial review was discussed in the following manner:-

"The legal position is well settled that the power of judicial review is not directed against the decision but is confined to the decision making process. The Court does not sit in judgment on merits of the decision. It is not open to the High Court to re-appreciate and reappraise the evidence led before the Inquiry Officer and examine the findings recorded by the Inquiry Officer as a court of appeal and reach its own conclusions. In the instant case, the High Court fell into grave error in scanning the evidence as if it was a court of appeal. The approach of the High Court in consideration of the matter suffers from manifest error and, in our thoughtful consideration, the matter requires fresh consideration by the High Court in accordance with law. On this short ground, we send the matter back to the High Court. "



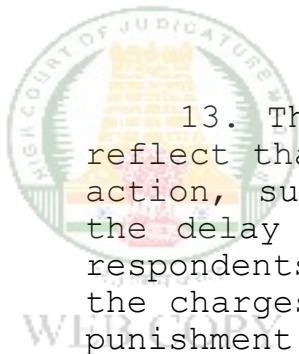
8. The grounds raised by the petitioner in the present writ petition does not touch upon any of the exceptions enabling this Court to exercise its powers under Article 226 of the Constitution of India, into an order of punishment. As a matter of fact, most of the grounds deal with the evidences recorded before the Enquiry Officer.

9. Thus, in view of the ratio laid down in the aforesaid decisions of the Hon'ble Supreme Court, this Court may not be justified or empowered to comment or consider the factual grounds raised by the petitioner.

10. The learned counsel for the petitioner also submitted that the charges against the petitioner are vague in nature and that it has been belatedly made. On a perusal of the charge memo, it is stated that the petitioner herein along with the set of co-accused has caused loss to the Bank to the tune of Rs.2,70,16,850/- to the assets of the Bank by indulging in unlawful acts and omissions and they are liable to reimburse the same with interest. The charges are also to the effect that due to the failure of the petitioner to discharge his functions properly, he has caused heavy loss to the Bank by allowing grades, even for defective loan applications, which led to allow/sanction of incorrect, incomplete or forged or otherwise defective loan applications, that resulted in default in repayment / collection and disabled the Bank from taking legal action against the defaulters.

11. The charges, as such, do not seem to be vague in nature. Unless and until, the delinquent is disabled to raise effective objections to the charges levelled, it cannot be said that the charges itself are vague. Thus, the petitioner's contentions in this regard and his reliance on the decision of the Hon'ble Division Bench in the case of ***State of Tamil Nadu, rep. by the Secretary to Government, Health and Family Welfare (K1) Department and another vs. Dr.S.Manimegalai*** reported in (2009) 5 MLJ 435 would be of no help to him.

12. Learned counsel for the petitioner had also raised a ground that the charges have been belatedly made. In this connection, it is seen that an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act was ordered on the affairs of the respondent Bank and it was found that there were certain serious lapses, irregularities illegalities as well as financial pilferage of several kinds. All those aspects were reflected in the enquiry report made under Section 81 of the Tamil Nadu Co-operative Societies Act. It is in pursuance of this enquiry report, the Joint Director of Cooperative Societies had instructed the concerned Banks to take action against the erring officers and accordingly, charges were levelled against the petitioner



13. The explanation rendered by the respondents in this regard reflect that though there was a delay in initiating the departmental action, such latches have been properly explained and accordingly, the delay cannot be said to be unexplained or baseless. When the respondents have established the reasons for the delay in initiating the charges, this Court may not be justified in interfering with the punishment imposed pursuant to the enquiry conducted, in accordance with the principles of natural justice. For all the foregoing reasons, I do not find any merits in the writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

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To:

1) The Joint Registrar of Cooperative Societies,
Dindigul Region, Dindigul.

2) The Managing Director,
Dindigul District Central Cooperative Bank Ltd.,
Kooturavu Nagar, Trichy Road, Dindigul 5

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-15348[F] dated 07/04/2021)

+1cc to M/S SPECIAL GOVERNMENT PLEADER,SR.No.12956 DATED 23.03.2021

Order made in

W.P. (MD)No.27133 of 2019

GS (27.04.2021) 5P 5C