



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.02.2022

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A. No.172 of 2013

G.Pandian

...Appellant

Vs.

1.The Additional Registrar of Co-op Societies,
(Marketing, Planning and Development),
Opp: Ega Theatre, Kilpauk, Chennai-10.

2.The Chairman,
Common Cadre Authority / Joint Registrar of
Co-op. Societies, Thiruvannamalai,
Kosamada Street, Thiruvannamalai,
Thiruvannamalai District.

3.The Special Officer,
H.H.498, Nadalaganandal Primary
Agricultural Co-op Bank,
Na.Pudur Village, Konalur Post,
Thiruvannamalai Taluk & District.

4.The President,
H.H.498, Nadalaganandal Primary
Agricultural Co-op Bank,
Na.Pudur Village, Konalur Post,
Thiruvannamalai Taluk & District.

... Respondents

(R4 impleaded as party respondent vide order of Court dated
15.04.2014 made in M.P.No.1 of 2013 in W.A.No.172 of 2013)

Prayer: Writ appeal is filed under clause 15 of the Letter
Patent praying to set aside the order in W.P.No.20231 of 2009
dated 08.06.2010.

W.P.No.20231 of 2009: Praying for the issue a Writ of
Certiorarified Mandamus to call for the records relating to the
impugned order passed by the second respondent in his



proceedings No.Na.Ka.16923/2007 Tho.Vae.Ku.Va, dated 30.10.2008 which was confirmed by the first respondent in his proceedings No.Na.Ka.11217/2008 Sa.Pa.1, dated 3.8.2009 and quash the same and consequently, to direct the respondents to reinstate the petitioner into service with all backwages and other benefits.

For Appellant : Mr.L.Chandrakumar
for M/s.B.Jawahar

For Respondents : No appearance
1 and 2

For Respondents : Mr.L.P.Shanmugasundaram
3 and 4

JUDGMENT

The appellant/ writ petitioner prays to set aside the dismissal order passed by the learned single Judge in W.P.No.20231 of 2019 dated 08.06.2010.

2. It is the case of the appellant/ writ petitioner that he was appointed in the 3rd respondent Bank as Clerk on 01.08.1984, and thereafter, through employment exchange, he was appointed as Secretary in the 3rd respondent

Bank. While so, to the shock and surprise, he was issued with charge memos by the Joint Registrar of Co-operative Societies in Na.Ka.No.16923 of 2007 Tho.Vae.Ku.Va, dated 17.12.2007 and Na.Ka.No.16923 of 2007 Tho.Vae.Ku.Va, dated 21.02.2008, wherein, several charges were framed against the appellant/ writ petitioner, including the one of misappropriation of the society funds to the tune of Rs.12,51,500/- for which enquiry under Section 81 was initiated against the appellant/ writ petitioner. Subsequently, surcharge proceedings was also initiated against the appellant/ writ petitioner and he was, subsequently, dismissed from service vide order dated 30.10.2008 by the 2nd respondent herein. Thereafter, the Deputy Registrar of Co-operative Societies in C.E.P.No.103/2008-09- SP 3/2008-09 dated 17.03.2009 issued an order regarding attachment of the property belonging to the appellant/ writ petitioner. Aggrieved over the same, the appellant/ writ petitioner filed a writ petition in W.P.No.20231 of 2009 and the same was dismissed by the learned Single Judge vide an order of this Court dated 08.06.2010, against which the appellant/ writ petitioner has come up with this writ appeal.



3. Mr.L.Chandrakumar, learned counsel for the appellant/ writ petitioner submitted that no opportunity has been given to the appellant/ writ petitioner to explain in respect of adjustment in the books of account, and therefore the charge of misappropriation is highly illegal. He further submitted that the CMA filed with regard to questioning Section 81A proceedings was also allowed. The learned counsel further contended that if an opportunity was given to tally the books of accounts, he would have proved that the charges levelled against him were baseless. The denial to furnish relevant documents to prove the charges will amount to violation of principles of natural justice, and on that sole ground the matter may be remitted to the authority concerned for fresh disposal. The appellant/ writ petitioner has attained superannuation and is now 63 years old.

4. Learned Counsel for the Respondents 3 and 4 contended that the learned Single Judge has rightly considered various submissions made by the appellant/ writ petitioner and came to the conclusion that an opportunity was duly given in the enquiry and that he was unable to account for the sale of gunny bags belonging to Society as well as the jewel loans extended in the name of fictitious persons. A reading of the explanation given by the employee would reveal that the amount has been given to third parties, which the appellant/ writ petitioner was unable to bring on record, resulting in imposition of punishment.

4.1. The learned counsel for the Respondents 3 and 4 further contended that the learned Judge has also observed that the appellant/ writ petitioner was unable to account the jewel loan extended in the name of fictitious persons and accordingly, dismissed the writ petition filed by the appellant/ writ petitioner herein. He pointed out that the Revisional authority also dismissed the petition filed by the appellant/ writ petitioner. Therefore, he prays to dismiss this appeal.

5. Heard both sides and perused the materials available on record.

6. The sum and substance of the case revolves around the sale of gunny bags as well as extension of jewel loans to fictitious persons. Though, the charge in respect of former one may not be so serious, the latter part, insofar granting fictitious jewel loan, cannot be taken so slightly. Therefore, the Enquiry Officer, based on the evidence let in before him, came to the conclusion that the charges are established. However, based on the enquiry report, a Criminal case was also filed against the appellant/ writ petitioner in Crime No.2 of



2008.. The Hon'ble Supreme Court in the case of Disciplinary authority -cum-Regional Manager and others vs. Nikunja Bihari Patnaik reported in (1996) 9 SCC 69 having condemned the behaviour of an employee acting beyond his/her authority, leading to indiscipline, so as to spoil the reputation and goodwill earned by the organisation. The relevant portion of the judgment is extracted hereunder:

"Each officer of the bank cannot be allowed to carve out his own little empire wherein he dispenses favours and largesse. No organisation, more particularly, a bank can function properly and effectively if its officers and employees do not observe the prescribed norms and discipline. Such indiscipline cannot be condoned on the specious ground that it was not actuated by ulterior motives or by extraneous considerations."

7. In view of what is stated herein above, in our opinion, the order of the learned Single Judge in affirming the order of punishment is perfectly valid and we find no reason whatsoever to interfere with the order of the learned Single Judge.

8. In the result, the Writ Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

smn/mka

To:

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(Marketing, Planning and Development),
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4.The President,
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+1cc to Mr.B.Jawahar, Advocate SR.No.12473
+1cc to the Government Pleader SR.No.12348

W.A.No.172 of 2013

RSV(CO)
GN(03/06/2022)