IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.14580 of 2010

V.Nagarajan ... Petitioner

Vs.

1.The Registrar of the Co-operative Societies,
Kilpauk, Chennai-600 010.

2.The Joint Registrar of Co-operative Societies,
Villupuram, Villupuram District.

3.The Joint Registrar/ Special Officer,
Villupuram District, Central Co-operative
Bank Ltd., No.2, Hospital Road,
Villupuram-605 602. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 28.04.2010 made in Na.Ka.8304/2009-Sa.pa. confirming the order dated 15.07.2009 in Na.Ka.No.8084/2008/Sa.Pa. passed by the 2nd respondent herein who confirmed the order dated 18.03.2008 made in Na.Ka.No.8640/2006-2007/NFS/E1 passed by the 3rd respondent, quash the same and consequently direct the respondents herein to give all consequential benefits to the petitioner with effect from 18.03.2008.

For Petitioner : Mr.R.Darshan
for M/s.N.Manokaran

For Respondents: Mrs.V.Yamuna Devi
Special Govt. Pleader

ORDER

The writ petition is filed challenging the impugned order dated 28.04.2010 under Section 154 of the Tamil Nadu Co-operative Societies Act, 1983.

2. Brief facts:

i) The petitioner joined the services of the South Arcot District Central Co-operative Bank as Assistant on 08.06.1972.

The petitioner was transferred by promotion to the post of Manager to Villupuram District Central Co-operative Bank Ltd., on 05.10.2005 and served the said Bank until 09.05.2007.

ii) A show-cause notice dated 19.11.2007 was issued alleging that the petitioner had failed to verify if the loan application had been properly scrutinized by the Assistant and instead forwarded the loan application for approval of the higher authorities. The petitioner had not followed the rules relating to disbursement of loans. The explanation of the petitioner that there were no irregularities in disbursement of loan was rejected.

iii) An enquiry report was submitted to the Special Officer alleging that the petitioner has forwarded the loan application of Tamil Nadu State Transport Corporation Employees Cooperative Thrift and Credit Society but failed to verify if the loan application had been properly scrutinized by the Assistant. Further, the petitioner has forwarded the loan application overlooking the fact that the loan applicants were members/persons who had earlier committed default. The petitioner failed to notice the above aspects which are relevant and ought to have been considered before forwarding the loan application, and instead forwarded the loan application to his higher authority. The above action was treated as constituting gross negligence and failure to discharge the duties, thereby, causing damage to the reputation of the employer. In this regard, it may be relevant to refer to the duties and responsibilities of the Bank Manager, which is extracted below:

> "1. Ensuring the share qualifications for the borrowings of the societies from Central Bank.
>
> 2. Ensuring the obtaining of all special certificates from the Circle Field Manager/ Senior Supervisor and the certificate prescribed by the Head Office.
>
> 3. Satisfying all the conditions imposed by the Head-Office in the Loan Sanction Order.
>
> 4. Sufficient stock cover for the cash credit outstanding.
>
> 5. Ensuring the receipt of printed receipt for previous loans.
>
> 6. Ensuring the execution of Central Bank Promote for the loan disbursed.
>
> 7. Obtaining the copy of the resolutions regarding mode of disbursement etc.,
>
> 8. Regarding the retention of cash balance within the time fixed."

A reading of the above would show that, in terms of Clause (3), a duty was cast on the Manager to ensure that the conditions set out therein was satisfied while dealing with an application /request for loan.

It was further submitted that though audit was conducted in the year 2001-02 but has not been conducted thereafter which ought to have been noticed by the petitioner, but the petitioner failed to notice the same.

iv) On the basis of the same, the Enquiry Officer found that the petitioner had acted negligently and failed to discharge his duties in terms of the Regulations. The Special Officer vide proceedings dated 18.03.2008 concurred with the enquiry report and imposed a punishment of stoppage of increment for a period of 3 months without cumulative effect.

v) Challenging the above, a Review was filed before the Special Officer which was rejected on the premise that the Special Officer was not vested with power of review. Thereafter, an application was filed under Section 153 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as "the Act"). The order of the Special Officer was confirmed by the proceedings under Section 153 of the Act on the premise that the petitioner has not let in any evidence to disprove the allegations.

vi) Aggrieved by the same, the petitioner preferred an appeal under Section 154 of the Tamil Nadu Co-operative Societies Act. However, the said application/ appeal was disposed of on the premise that the authority under Section 153 of the Act has the power to review and therefore the petitioner ought to file a review under Section 153 of the Act. However, the said review was again rejected on the premise that the scope of review is limited.

6. Aggrieved by the same, the petitioner has filed this writ petition primarily on the ground that the authorities below had proceeded on the basis of the enquiry report and that an opportunity to explain the allegations leveled against him has not been provided and further one Mr.S.Krishnamoorthy, Assistant General Manager who was charged along with the petitioner has been subject to only censure and therefore the punishment of stoppage of increment for 3 months without cumulative effect is violative of Article 14 of the Constitution of India. It is further submitted that the orders of the lower authorities are bereft of any reasons.

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

8. We find that in the present case, it has been found as a matter of fact by the lower authorities that the petitioner had failed to verify, if the loan application had been properly scrutinized by the Assistant and instead forwarded the loan

application for approval of the higher authorities. Further while forwarding the application the petitioner failed to see that the applicants were Members of the Society who had defaulted in payment of loans earlier, which ought to have been taken into account before forwarding the loan application. Further, though audit has not been carried out since 2001-2002, no effort was made to carry out the same. All these factors taken cumulatively would suggest that the petitioner was negligent in discharging his duties/ obligations in particular in scrutinising and forwarding the application for loans and has acted in disregard to the regulation. It is relevant to note that Courts have taken a strict view whenever it comes to negligence on the part of the authorities of the Banking Sector inasmuch as the Banking Sector deals with public money and therefore it is necessary for the employees therein to exercise due diligence and discharge their duties in terms of the Regulations. In this regard, it may be relevant to refer to the decision of the Hon'ble Supreme Court in the case of Boloram Bordoloi v. Lakhimi Gaolia Bank reported in (2021) 3 SCC 806 wherein it was held as follows:

> "13. The Manager of a bank plays a vital role in managing the affairs of the bank. A bank officer/employee deals with the public money. The nature of his work demands vigilance with the in-built requirement to act carefully. If an officer/employee of the bank is allowed to act beyond his authority, the discipline of the bank will disappear. When the procedural guidelines are issued for grant of loans, officers/employees are required to follow the same meticulously and any deviation will lead to erosion of public trust on the banks. If the Manager of a bank indulges in such misconduct, which is evident from the charge memo dated 18-6-2004 and the findings of the enquiry officer, it indicates that such charges are grave and serious. In spite of proved misconduct on such serious charges, disciplinary authority itself was liberal in imposing the punishment of compulsory retirement. In that view of the matter, it cannot be said that the punishment imposed in the disciplinary proceedings on the appellant, is disproportionate to the gravity of charges. As such, this submission of the learned counsel for the appellant also cannot be accepted."

9. This Court also finds on going through the enquiry report as well as the order of punishment and the orders challenged under Section 153 of the Act and the order on review that though the petitioner was put on notice he has failed to exercise due diligence and avail the opportunities provided and

thus the plea that reasonable opportunity was not provided is specious and unsustainable.

10. This Court finds that though the petitioner was negligent in discharging his duties/ obligation in discharging the loans which warrants stringent action the 3rd respondent has taken a lenient view in awarding the punishment of stoppage of increment for 3 months without cumulative effect, thus the same may not warrant any interference.

11. For the foregoing reasons, this Court finds no merit and the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To:

1.The Registrar of the Co-operative Societies,
Kilpauk, Chennai-600 010.

2.The Joint Registrar of Co-operative Societies,
Villupuram, Villupuram District.

3.The Joint Registrar/ Special Officer,
Villupuram District, Central Co-operative
Bank Ltd., No.2, Hospital Road,
Villupuram-605 602.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.23975
+1cc to the Government Pleader, S.R.No.24291

W.P. No.14580 of 2010

SSI(CO)
SB(22/06/2022)