



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.20214 of 2010

V.Solaimuthu

... Petitioner

Vs.

1.The Registrar of Co-Operative Societies,
O/o.Co-Operative Societies,
Kilpauk, Chennai - 600 010.

2.The Joint Registrar of Co-Operative Societies,
Perambalur Zone,
Perambalur Taluk & District.

3.The Special Officer,
TYSPL - 98 Marudhur Primary
Agricultural Primary Credit Society,
Marudhur Village, Udayarpalayam Taluk,
Ariyalur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to pass an order or direction, particularly in the nature of Writ of Certiorarified Mandamus calling for records of the 2nd respondent, particularly the impugned order dated 31.05.2010 vide Reg.Na.Ka.2870/2009, Sa.Pa and Quash the same and consequentially direct the respondents to place the petitioner in appropriate place with due promotion and also with monitory benefits.

For Petitioner : Mr.P.Thanjan

For Respondents: Mr.M.Alagu Gowtham
Government Advocate
for R1 and R2

R3 - No Appearance



O R D E R

This Writ Petition is filed challenging the order passed by the second respondent dated 31.05.2010, thereby rejecting the Revision filed by the petitioner as against the order of the third respondent / Society dated 31.03.2009, thereby imposing a punishment of de-promotion to the next lower level.

2. The petitioner was working as a cashier in the third respondent / Co-operative Society. While so, he was suspended from service on 13.12.2006 and thereafter, he was issued with a charge memo dated 19.04.2008, containing eight charges.

The first charge against the petitioner is that while granting crop loan to one M.Dharmalingam, without granting cash and fertilizer to him, false account has been written as if he was granted the same. The second charge is that fraud has been committed in respect of the grant of crop loan to one Ranganathan. The third charge is again a similar charge in respect of the grant of loan to one Selvarasu. The fourth charge in respect of similar fraud being committed in respect of loan granted to one Madhiazhagan and the fifth charge is in respect of not granting fertilizer to one P.Pakkirisamy and the sixth charge is similar in respect of one A.Manickam and the seventh charge is not adhering to the earlier resolution of the Bank and misappropriating the amounts and the eight charge is the consequential charge of bringing disrepute to the Co-operative Society.

3. Since the petitioner denied the charges by his explanation dated 30.05.2008, domestic enquiry was conducted and the enquiry officer submitted his report dated 25.08.2008, found that the charges as proved.

4. A second show cause notice dated 20.12.2008 was issued to the petitioner and further explanation was submitted by the petitioner on 02.01.2009 and after considering the enquiry officer's report and further explanation of the petitioner, by an order dated 31.03.2009, the disciplinary Authority agreed with the findings of the enquiry officer and for the proven charges, a lenient view was taken, considering family circumstances of the petitioner and the petitioner was imposed the punishment of de-promotion to the next lower post.

5. Aggrieved by the same, the petitioner preferred a Revision under Section 153 of the TamilNadu Co-operative Societies Act, 1983 before the second respondent herein. The second respondent, considering the entire materials on record including the enquiry officer's report, the subsequent



explanation of the petitioner, the order of the disciplinary Authority and the grounds of Appeal, confirmed the punishment imposed on the petitioner, but, however, clarified that the punishment should be reverting the petitioner to the next lower post i.e., the post of clerk as on date of the punishment i.e., with effect from 31.03.2009 and disposed of the revision.

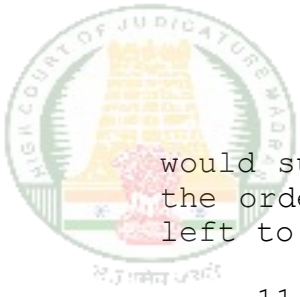
6. Aggrieved by the same, the present Writ Petition is filed.

7. Heard Mr.P.Thanjan, learned counsel appearing for the petitioner and Mr.M.Alagu Gowtham, learned Government Advocate appearing on behalf of the respondent Nos.1 and 2.

8. The learned counsel appearing for the petitioner taking this Court through the enquiry officer's report, disciplinary Authority's order and the Appellate Authority's order would submit that considering the nature of the charges, the error committed by the petitioner was informing directly to the higher Authorities and he was only a cashier and the misconduct alleged in falsifying the accounts and not granting actual loan, etc., are alleged against him and as a cashier, he was only carrying out the orders of the secretary or the other officials of the society and the role played by him is only disbursing of the cash or cheque as the case may be. Therefore, all the charges cannot be leveled as against the petitioner and the findings of the disciplinary Authority as well as the enquiry officer in this regard are perverse in nature. He would further submit that even while implementing the punishment order, the petitioner was wrongly reverted to the post of attender and even monetary benefits during the interregnum period was not properly paid to him.

9. Per contra, Mr.M.Alagu Gowtham, learned Government Advocate appearing on behalf of the respondent Nos.1 and 2 would submit that the due procedure as per the Rules have been followed in the conduct of the domestic enquiry. The disciplinary Authority as well as the Appellate Authority have taken into account, the role played by the petitioner as a cashier, while he also signed along with the other delinquent officials as if the amount was disbursed to the member farmers while actually the same was never done. Therefore, it cannot be argued that the findings of the enquiry officer as well as the disciplinary and Appellate Authorities are perverse in nature. On the contrary, they are based on the materials available on record especially an enquiry under Section 81 was conducted in the instant case.

10. As far as the grievance of the learned counsel for the petitioner regarding the post of reversion is concerned, he



would submit that the same is addressed in the last paragraph of the order passed in the Revision and therefore, there is nothing left to be interfered by this Court.

11. I have considered the rival submissions made on behalf of both sides and perused the material records of this case.

12. I am unable to agree with the contention of the learned counsel for the petitioner that the findings of the enquiry officer as well as the disciplinary and Appellate Authorities in this case are perverse. A perusal of the charge and evidence available on record clearly shows that there is evidence relating to the involvement of the petitioner in this case along with the other officials and therefore when the enquiry Authority as well as the disciplinary Authority have appraised the evidence available on record and have arrived at a finding, this Court in exercise of the powers of judicial review cannot consider the charge on merits and re-appraise the evidence. The limited scope of judicial review is to consider whether the finding of guilt is based on some tangible and acceptable evidence and in this case, the same is based on ample evidence available on record gathered during the course of the enquiry under Section 81 of the TamilNadu Co-operative Societies Act and therefore, I am unable to accept the contention of the petitioner.

13. As far as the second grievance of the petitioner that he was erroneously accommodated in the post of attender while implementing the order of punishment is concerned, it is necessary to quote the penultimate paragraph of the impugned order, which reads as follows:

“மேலும், தனி அலுவலரால் வழங்கப்பட்டுள்ள தண்டனைப்படி சீராய்வ, மனுதாரர் தண்டனைத் தேதியில், அதாவது 31.03.2009ல் காசாளராக இருந்துள்ளதால், அதற்கு அடுத்த கீழ்நிலைப் பணியிடமான எழுத்தர் பணியிடத்திற்கு பணியிறக்கம் செய்யப்படுவதுடன், இவர் காசாளராகப் பதவி உயர்வு பெற்ற தேதியிலிருந்து எழுத்தர் பணியிடத்திற்கான ஊதியத்தினை நிர்ணயம் செய்து வழங்க வேண்டுமென்றும் ஆணையிடப்படுகிறது”

Therefore, the petitioner would only to be deemed to be reverted to the post of clerk and not that of the attender, which is clear from the order itself. However, the learned counsel for the petitioner submits that the salary and benefits due for the post of clerk was not paid to the relevant period of time.

14. As far as the present Writ Petition is concerned, it is relating to the charges and disciplinary enquiry and the punishment, which I have found that there is no ground to interfere.



15. As far as the grievance relating to non payment of arrears is concerned, firstly the order of the Revisional Authority is clear and categorical as extracted above. If only the amount is not paid as per the order of the second respondent dated 31.05.2010, the same shall be paid out to the petitioner. Therefore, the present Writ Petition is disposed of on the following directions:

i) The impugned orders dated 31.03.2009 passed by the third respondent and dated 31.05.2010 passed by the second respondent are upheld and the punishment imposed on the petitioner is in order;

ii) The petitioner is not entitled to any other relief as he has been rightly placed in the post of clerk with effect from 31.03.2009;

iii) However, taking into account the order of the second respondent dated 31.05.2010 as correct, placing the petitioner as clerk with effect from 31.03.2009 if any salary or pay applicable to the said post of clerk was not allowed or not correctly fixed, the petitioner will be entitled to make a specific representation to the third respondent within a period of two weeks from the date of receipt of copy of this Order and the third respondent shall pass orders thereon in accordance with law, taking into account the order of the second respondent which is being upheld by this Court by the present order, in any event within a period of four weeks from the date of receipt of representation.

iv) There will be no order as to costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Registrar of Co-Operative Societies,
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3.The Special Officer,
TYSPL - 98 Marudhur Primary
Agricultural Primary Credit Society,
Marudhur Village, Udayarpalayam Taluk,
Ariyalur District.

+1cc to Mr.P.Thanjan, Advocate SR.No.28774

+1cc to Government Pleader SR.No.28393

W.P.No.20214 sof 2010

NR(CO)
GMY(27/05/2022)