

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26653 of 2015

and

M.P.No.2 of 2015

E.Durai

... Petitioner

Vs

1. The Joint Registrar of
Co-operative Societies,
Perambalur Region, Perambalur,
Perambalur District.
2. The Special Officer,
(Now) The President,
Ty.Spl.100, Andimadam Primary
Agricultural Coop. Credit Society,
Andimadam, Ariyalur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.3931/2011 Sa.Pa/Suo-moto Revision Petition No.2/2011, dated 14.10.2011 and quash the same, consequently direct the respondents to reinstate the petitioner into service as Salesman with all back wages, attendant benefits and other monetary benefits.

For Petitioner : Mr.C.Prakasam

For R1 : Mrs.S.Anitha, Spl. GP
For R2 : Mr.L.P.Shanmugasundaram

ORDER

The order of punishment imposed by the disciplinary authority and the major penalty of termination imposed by the revisional authority are under challenge in the present writ petition.

2. The petitioner was appointed as Salesman in the second respondent Society on 01.04.1991. On account of certain

allegations during the inspection, a disciplinary proceeding was initiated against the petitioner and he was placed under suspension on 25.01.2011 and a charge memo was issued to the petitioner framing 3 charges. The first charge against the petitioner was that he remained unauthorizedly absent on 21.01.2011, 24.01.2011 and 25.01.2011 and not opened the fair price shops, creating inconvenience to the public at large. The second charge was that he caused shortage on essential commodities to the tune of Rs.21,008/-. The third charge was that he himself admitted the above charges and he made a submission before the authorities that he will repay the deficit charges, which he failed to do so. Thus, all these allegations were converted into a charge memo.

3. The petitioner submitted his explanation and not satisfied with the same, an Enquiry Officer was appointed, who in turn conducted an enquiry. The petitioner participated in the process of enquiry and defended his case. The Enquiry Officer submitted his report holding the charges against the petitioner as proved. The disciplinary authority/the Special Officer, who is the second respondent herein, imposed the punishment of stoppage of increment for a period of 3 years with cumulative effect. As against the order of the disciplinary authority, the revisional authority exercised the powers of suo-moto revision under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, (hereinafter referred to as 'the Act') and conducted further enquiry. During the enquiry, the revisional authority found that the allegations against the petitioner were serious in nature and considering the grave charges, which were proved before the Enquiry Officer, the revisional authority imposed the punishment of termination from service.

4. The learned counsel for the petitioner mainly contended that no notice or opportunity was given to the petitioner before the order was passed by the revisional authority under Section 153. Thus, the impugned order passed by the revisional authority is liable to be set aside.

5. The learned Special Government Pleader appearing for the first respondent was directed to produce the files in this regard. The Joint Registrar of the Cooperative Societies, Perambalur District, who is present before this Court today, submitted the original files and on perusal of the same, it reveals that a show cause notice was issued to the petitioner by the revisional authority under Section 153(1) of the Act on 19.09.2011 and the said notice was acknowledged by the petitioner on 26.09.2011. The original acknowledgment card is also available in the records. Thus, the respondents established that a notice and opportunity was provided to the petitioner to defend his case and further, the suo-moto initiation was also

informed to the petitioner through the said notice. Thus, the statement in this regard made by the petitioner is incorrect.

6. Pertinently, the petitioner has participated in the enquiry and given his deposition on 30.09.2011. Thus, the revisional authority, after considering all the materials available on record and by affording an opportunity to the petitioner, passed the order of termination.

7. The allegations against the petitioner, no doubt, are grave in nature and were proved. For the proven charges, the Special Officer imposed minor penalty. The revisional authority formed an opinion that imposing minor penalty for grave charges is not in proportion and accordingly, taken a decision to invoke suo-moto revision under Section 153 of the Act. Such an action of the revisional authority, as contemplated under the provisions of the Act, is held within his powers and there is no infirmity as such.

8. Whenever the original authority imposed the punishment or exonerated the employee, which is not in consonance with the gravity of charges, then the revisional authority is empowered to invoke suo-moto powers for the purpose of modification or enhancement of the punishment or otherwise. In the present case, the allegations are grave in nature and thus, there is no infirmity in invoking suo-moto revisional powers under Section 153 of the Act. While invoking the powers under Section 153, a summon under Section 153(1) was issued to the petitioner, which was acknowledged and the petitioner also participated in the process of enquiry and deposed before the revisional authority. The deposition of the petitioner was recorded and based on the facts and circumstances and the materials available on record, the revisional authority imposed the major penalty on the petitioner.

9. This Court is of the considered opinion that there is no disproportionality in the matter of imposing the modified punishment on the petitioner. Thus, the petitioner has not established any grounds for the purpose of interfering with the impugned order. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

hvk

To

The Joint Registrar of
Co-operative Societies,
Perambalur Region, Perambalur,
Perambalur District.

W.P.No.26653 of 2015

NR(CO)
CT/29/07/2022