



W.A. (MD) No. 637 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.06.2022

PRONOUNCED ON: 15.07.2022

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A (MD).No.637 of 2022

S.Saraswathi

....Appellant/Petitioner

Vs

1.The Joint Registrar of Co-operative Societies
Theni

2.D.D.137,Lakshmipuram Primary Agricultural
Co-operative Credit Society
Represented by its Special Officer
Lakshmipuram
Periakulam Taluk, Theni District

3.K.Radhakrishnan
Enquiry Officer
D.D.137,Lakshmipuram Primary Agricultural
Co-operative Credit Society
Represented by its Special Officer
Lakshmipuram
Periakulam Taluk,
Theni District

...Respondents/Respondents



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to call for the records relating to the order dated 24.11.2021 made in W.P(MD).No.5654 of 2013 and set aside the same and allow the above writ appeal.

For Appellant : Mr.V.R.G.Mohan
For R1 & R2 : Mr.S.R.A.Ramachandran
Additional Government Pleader

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The Writ Appeal has been filed challenging the order passed by the learned Single Judge in WP(MD).No.5654 of 2013 on 24.11.2021 wherein the prayer of the petitioner to quash the order of her dismissal has been rejected.

2.The petitioner was working as a Saleswoman in a Fair Price Shop. She was issued with a charge memo on 09.07.2012 on the allegation that she was holding two family cards. One in her name and other in the name of her husband Seenivasan under Anthoyodaya Annayojana Scheme(AAY). The said scheme is meant for the people who are below the poverty line. While 20 Kg of free rice is



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offered to the other family cards, under this family card under AAY Scheme 35 kg of free rice is being offered.

3.The petitioner was alleged to have registered a family card in her own name in the same Fair Price Shop in which she was working as a Saleswoman. Another family card standing in the name of her husband was registered in a nearby Fair Price Shop. She submitted her explanation on 09.07.2012. Since the said explanation was not satisfactory, an enquiry was ordered. In the said departmental enquiry, the writ petitioner was found guilty. Thereafter, she was issued with a second show cause notice. However, the writ petitioner has not offered her explanation for the second show cause notice. Thereafter, on 24.09.2012, a personal hearing was offered to the writ petitioner.

4.The Enquiry Officer had submitted his report with a finding that the delinquent Saleswoman was guilty of holding two ration cards under AAY Scheme for which she was not eligible. After hearing the delinquent, the disciplinary authorities passed an order dismissing the



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petitioner from service. The said order was challenged by the writ petitioner by way of a revision before the first respondent herein. The first respondent had passed the impugned order confirming the order of dismissal passed by the disciplinary authority. The said order was impugned in the writ petition.

5. Before the Writ Court, the learned counsel for the petitioner had contended that the petitioner was not permitted to examine any one and marked any records on her side. But, the Disciplinary authority has examined a witness and produced certain documents during the enquiry without any notice to the writ petitioner. However, the documents that were relied upon by the Management were not marked as exhibits in the enquiry report. The petitioner had further contended that she was not permitted to examine the saleswomen of another Fair Price Shop in which a family card has been registered in the name of the petitioner's husband. Thus, the writ petitioner had alleged procedural irregularity in conducting the enquiry to challenge the order of dismissal.



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6.The learned Single Judge has called for the Distribution Register and verified whether the petitioner was having two family cards under AAY Scheme. After being satisfied to the said fact, the learned Single Judge has confirmed the order of dismissal of the writ petitioner and thereby, dismissed the writ petition. The said order is under challenge in the present writ appeal.

7.The learned Counsel appearing for the appellant had contended that no proper procedure was followed during the enquiry and the petitioner was not permitted to examine any witness on her side. The learned counsel had further contended that the petitioner was not provided with all the documents marked on the side of the Management so as to defend her properly.

8.Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 had contended that the petitioner had created two family cards, one in her name and another in the name of her husband. Both the family cards have been obtained under AAY Scheme for which she was not eligible. In fact, one of



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the family cards has been registered in the same Fair Price Shop in which the petitioner was working as a saleswoman. Hence, He contended that the writ petitioner had abused her power and created two cards in order to claim 35 Kg of rice meant for the people below the poverty line. Hence, he contended that the order of dismissal passed by the Original Authority and confirmed by the Revisional Authority have been rightly upheld by the learned Single Judge. Hence, he prayed for dismissal of the writ appeal.

9. We have considered the submissions made on the side of the appellant and the learned Additional Government Pleader appearing for the respondents 1 and 2.

10. There is no dispute that the writ petitioner is working as a Saleswoman in a particular Fair Price Shop. She has also not disputed the fact that she has obtained a family card in her own name under AAY Scheme in the same Fair Price Shop in which she is working as a Saleswoman. Admittedly, she is drawing a salary for more than Rs.9,000/- per month and she is not entitled to any family



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card under AAY Scheme. This undisputed fact will clearly reveal that the petitioner has abused her power and obtained a family card meant for the people below the poverty line. That apart, she has already obtained a family card in the name of her husband under the same AAY Scheme in the nearby Fair Price Shop. Records reveal that at the time of purchase of rice, the petitioner alone has signed in both the family cards. The Enquiry Officer after affording due opportunity to the writ petitioner has arrived at a finding that she has committed the misconduct. The Disciplinary Authority has issued a second show cause notice and thereafter, on independent analysis of the enquiry report has passed the order of dismissal. The revision authority has also passed a detail order concurring with the order passed by the Disciplinary Authority.

11. Undisputed facts described above will clearly reveal that the petitioner has completely abused her power and position and obtained the family card in the same shop in which she was working. The rice which is being offered free of cost for the people under below poverty line has been misused by the writ petitioner.



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12. In such an event, we do not find that the order of dismissal passed against the writ petitioner is disproportionate to proved charges of misconduct.

13. In view of the above said discussion, we do not find any merit in the writ appeal. The Writ Appeal stands dismissed. No costs.

(P.N.P.J.,) (R.V.J.,)

15.07.2022

Index :yes
Internet :yes
msa

To

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**P. N. PRAKASH, J.
AND
R. VIJAYAKUMAR, J.**

msa

Pre-delivery Judgment made in
W.A(MD).No.637 of 2022

15.07.2022