



WP.No.11344 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 20.02.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No.11344 of 2015
and M.P.No.2 of 2015**

T.V.Manivannan

... Petitioner

Vs.

1.The Revision Authority Joint Register of
Cooperative Societies, Salem Region,
Salem-636001

2. No.8718, Semmandapatty Primary Agricultural
cooperative Credit Society Ltd., rep. by its President,
Semmandapatty -636309,
Omalur Taluk, Salem District

3. S.A. Cheran Senguttuvan,
President,
Semmandapatty Primary Agricultural
Cooperative Credit Society Ltd.,
Semmandapatty -636309,
Omalur Taluk, Salem District.
Respondents

...

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Impugned orders passed by the 2nd respondent dt 08.10.2014



WP.No.11344 of 2015

and confirmed in the impugned orders passed by the 1st respondent in Na.Ka.No.10452/2014 Sa.Pa. dated 10.12.2014 and quash the same and consequently direct the 2nd respondent to reinstate the petitioner into the service with continuity of service, back wages and all other attendant benefits.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.S.Arumugam,
Govt. Advocate for R1
Mr. M.S.Palaniswamy for R2 & R3

ORDER

This Writ Petition has been filed, against the impugned order dated 10.12.2014 passed by the 1st respondent-Revision Authority Joint Register of Cooperative Societies, whereby the petitioner was imposed with the punishment of dismissal from service.

2. The Petitioner was working as Assistant Secretary in the office of the 2nd respondent Society. On 05.11.2001, a sum of Rs.5,000/- was over drawn from the petitioner's savings account, held with the Society. For the above stated misconduct, the 3rd respondent passed the order of suspension



WP.No.11344 of 2015

on 09.12.2013, against the petitioner. Consequently, following three

charges have been framed against the petitioner:-

- (a) The petitioner had misappropriated a sum of Rs.5,000/- by over drawal in his SB Account on 05.11.2011,
- (b) The petitioner had falsified the accounts relating to his SB Account for the purpose of misappropriating funds from the account on 05.11.2011 and
- (c) The petitioner had prepared false payment voucher and thereby drew the amount in his SB account on 05.11.2011.

3. For the above charges, the petitioner sent reply dated 09.01.2014, but finding it not satisfactory, domestic enquiry was ordered by the respondents. After completion of enquiry, the enquiry officer submitted his report on 10.07.2014, concluding that all the three charges have been proved against the petitioner. Based on the enquiry officer's report, show cause notice was issued, calling for explanation of the petitioner, as to why an order of dismissal cannot be passed against him. The explanation given by the petitioner was not accepted and the 2nd respondent Society imposed the



WP.No.11344 of 2015

punishment of dismissal from service vide order dated 08.10.2014. As against which, Revision Application was preferred by the petitioner, before the 1st respondent, which authority by order dated 10.12.2014, confirmed the punishment of dismissal from service. Challenging the above said dismissal order, the present Writ Petition is filed.

4.The learned counsel for the petitioner would submit that the impugned orders passed by the 3rd respondent and confirmed by the 1st respondent is very cryptic and there is no discussion with reference to the explanation submitted by the petitioner before the enquiry officer. He would also submit that the petitioner admitted his guilt, for the occurrence on 05.11.2012 and he repaid the amount and adjusted the accounts on 12.09.2012 itself and the said occurrence taken place only due to pressure of work and hence, sought to modify the punishment imposed against the petitioner.



WP.No.11344 of 2015

5. The learned Government Advocate appearing for the 1st respondent

Authority filed counter affidavit and submitted that the impugned order has been passed after recording the findings of fact. Once the charge is proved, the quantum of punishment is decided by the disciplinary authority and the entire disciplinary proceedings has been conducted in accordance with law.

6. Heard both sides and perused the records.

7. Admittedly, the petitioner participated in the enquiry and explained about the overdrawal as one of omission and commission occurred in the course of transactions due to pressure of work and the same is not wilful act of any misappropriation. However, the respondents without taking into consideration the repayment made and explanation offered, passed the order of dismissal against the petitioner, which this court is of the considered view that the same is disproportionate to the alleged misconduct and charges framed against the petitioner.

8. The petitioner has joined the service of the respondent Society on



WP.No.11344 of 2015

18.02.1980 and except the present set of charges framed against the petitioner with respect to overdrawal of Rs.5000/- more than what is available in his account, the respondents have not come out with any other omission or commission in his service. Therefore, taking note of his past record and the nature of minor/technical misconduct that had happened in the single instance, this court is of the view that the punishment of dismissal from service is found to be shockingly disproportionate and hence, inclined to modify the same. Accordingly, this Court is of the view that inasmuch as the petitioner is now going to retire in few months and having been put in 34 years of service, the impugned order of dismissal is set aside and the punishment imposed on the petitioner is hereby modified from that of dismissal to that of voluntary retirement i.e., as on the date of suspension. It is made clear that this order will enable the petitioner to get all his retiral and pensionary benefits and he is not entitled for any other benefits. The 1st respondent is directed to compute the terminal benefits and grant the same to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.



WP.No.11344 of 2015

9.The Writ Petition is allowed on the above terms. No costs.

Consequently connected miscellaneous petition is closed.

20.02.2023

Index:Yes/No

Neutral citation:Yes/No

Speaking Order: Yes/No

Jer/nvsri

To

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