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W.P.No.1126 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.1126 of 2016

R.Saravanan

.. Petitioner

VS

1.The Joint Registrar of Cooperative Societies,
Tiruvallur Region, Tiruvallur.

2.The Joint Registrar of Cooperative Societies,
Villupuram Region, Villupuram.

3.The Managing Director,
Villupuram District Central Cooperative Bank Ltd.,
2, Hospital Road, Villupuram.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records on the file of he respondents relating to the impugned order of the first respondent bearing Na.Ka.No.5761/2014/Aa3 dated 05.05.2015 confirming the order of the second respondent bearing Na.Ka.No.3756/2012 SA.BA dated 31.10.2012 in so far as in imposing the punishment of two increment cut with cumulative effect and quash the same and direct the third respondent to pay the back wages and consider for promotion to the petitioner for the post of General Manager.

For Petitioner : Mr.C.Senapathi

For Respondents : Mr.S.Ravi Kumar
Special Government Pleader
for R1, R2
Mr.R.Arumugam for R3



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ORDER

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Writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to the impugned order of the first respondent, the Joint Registrar of Cooperative Societies, Tiruvallur Region, Tiruvallur District bearing Na.Ka.No.5761/2014/Aa3 dated 05.05.2015, by which order the first respondent confirmed the earlier order of the second respondent, the Joint Registrar of Cooperative Societies, Villupuram in Na.Ka.No.3756/2012/SA BA dated 31.10.2012 and confirmed the punishment of two increments cut with cumulative effect.

2. The petitioner seeks to quash both the above orders and to direct the third respondent, the Managing Director, Villupuram District Central Cooperative Bank Limited at Villupuram to pay the entire back wages to the petitioner and consider him for promotion to the post of General Manager.

3. In the affidavit filed in support of the writ petition, the petitioner had stated that he was working as Manager in the Head Office of the third respondent bank / Villupuram District Central



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Cooperative Bank Limited at Villupuram. He was working in the loan section from 05.02.2007. The petitioner was issued with a charge memo on 28.03.2011 alleging that he had acted contrary to Rule 149(7)(b) of Tamil Nadu Cooperative Societies Rules, 1988 and also special bye law no.10 by inducting his family members in three small tiny traders group and obtained loan to the said group and also obtained loan of Rs.1 lakh under loan no.1427 in the name of Selva Vinayagar Tiny Small Traders joint liability group by writing the loan application in his own hand writing and also obtaining two loans for Rs.2.50 lakh each, in the name of his mother and daughter as group members but alleging that it was for his purpose and that they were only his benamis and also for that he was responsible for disbursement of loans to small tiny traders joint liability group by violating the circular of the Registrar dated 21.11.2008.

4. The petitioner was working in a responsible position as Manager in the Head office of the third respondent, and more particularly, having been given the responsibility to be Manager of the loans section, should have been a little more responsible and diligent.



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5. Any cooperative society is formed for the purpose of lending a helping hand to its own members. Loans are disbursed to the members of the cooperative society. They are entitled for such disbursement of loan consequent to the fact that they become members and pay subscription to the society. The funds available for every cooperative society is also limited. It is meant only for the members of the said cooperative society.

6. The petitioner unfortunately appears to have overreached himself as Manager in the loan section and appears to have extended loan by filling up application form to his own family members / his mother and daughter and also enabled them to form a traders group and extended loan to such traders group. The petitioner should not have done that particular aspect.

7. In view of these facts, a charge memo was issued to the petitioner herein. The enquiry officer after enquiry proceedings returned a finding that the charges were not proved. However, the third respondent, Managing Director of the Villupuram District Central Bank Limited exercising his authority had taken a decision to differ from that particular finding and had called upon the petitioner to give further explanation. On consideration of the



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explanation, the third respondent had passed an order dismissing the petitioner from service.

8. The petitioner filed an appeal under Section 153 of the Cooperative Societies Act before the second respondent. The second respondent instead of retaining the order of dismissal from service had thought that it would be appropriate that if the petitioner is imposed with punishment of two increment cuts with cumulative effect. The petitioner filed a further revision under Section 154 of the Act before the first respondent. The first respondent had confirmed the said punishment. Questioning all these, the present writ petition has been filed.

9. In the counter affidavit, the first respondent had justified imposing the said punishment. The relevant part of the counter affidavit is extracted below:-

"3. I submit that, the petitioner had worked as Manager in the Head Office of the third respondent bank and worked in Loan Section from 05.02.2007. The third respondent issued a Charge Sheet dated 28.03.2011 alleging that 1) the petitioner acted in contrary to Rule 149(7) (b) of the Tamil Nadu Co-op Societies Rules and Special By law no.10 by inducting his family members in 3 small petty traders joint liability group and got loan to the groups and 2) obtained a loan to SELVA VINAYAGAR PETTY TRADERS JOINT LIABILITY GROUP by writing the loan application in his own hand writing and 3) obtained two loans of Rs.2,50,000/-



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each in women Self Help Group by inducting the petitioner's mother and petitioner's daughter as group members and 4) the petitioner was responsible for the disbursement of five loans to his family member's petty traders joint liability groups by violating the Registrar's circular No.21/2008 dated 09.07.2008. The above charges against the petitioner are framed as per third Respondent bank's records and materials.

4) I submit that the petitioner gave his explanations for the charges framed against him. The third respondent has appointed Domestic Enquiry officer to conduct the enquiry against the charges. The enquiry officer conducted enquiry and submit his findings dated 27.11.2011 holding that all the charges issued against the petitioner are not proved. The third respondent has not accepted the findings of the enquiry officer and communicated his disagreement to the enquiry report on 15.02.2012 and called for his explanation. The petitioner has submitted his explanation to the third respondent. The third respondent is empowered to disagree with the findings of the Domestic enquiry officer and so he has communicated his disagreement to the petitioner with reasons for his disagreement and gave opportunity to him to submit his explanation.

5) I submit that the petitioner was dismissed from service on 04.06.2012 and order was communicated to the petitioner and acknowledged by him. The dismissal order was passed on the basis of material evidence and records.

6) I submit, aggrieved by the dismissal order, the petitioner filed Revision petition under Section 153 of the Tamil Nadu Co-op Societies Act, 1983 before the 2nd respondent. The 2nd respondent disposed the Revision petition and



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set aside the dismissal order dated 04.06.2012 of the third respondent and imposed the punishment of increment cut for a period of two years with cumulative effect by his order dated 31.10.2012.

7) I submit that the 3rd respondent by the order dated 18.01.2013 reinstated the petitioner into the bank service and the petitioner joined duty on 18.01.2013.

8) The petitioner filed Review petition under Section 154 of the Tamil Nadu Co-Op Societies Act, 1983 against the order of the 2nd respondent dated 31.10.2012 denying back wages. I submit that the third respondent in his order dated 31.10.2012 did not impose any other punishment."

10. In this connection, it would be only appropriate that Rule 149 (7)(b) of the Tamil Nadu Cooperative Society Rules, 1988, is extracted below:-

"(b) No employee shall engage himself in any trade or business outside the scope of his duties either in his name or in the name of any member of his family or relative except with the previous permission of the Board."

11. In the instant case, the petitioner had clearly violated the above said provision by extending loans. My attention is also drawn to the nature of charges and it is seen that the petitioner had, during the course of enquiry, admitted that he had filled in the application form seeking loan. It is also stated that he had extended loan to his own family members / mother and daughter



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and had also permitted them to form a trade group and had granted loan to that particular trade group.

12. The petitioner having violated the rules and regulations, should be extremely fortunate that the original order of the third respondent, namely, dismissal from service, had not been retained by respondent nos. 1 and 2. They had thought it fit that the punishment of cut of two increments for two years with cumulative effect would serve the ends of justice.

13. The petitioner had not raised any grounds about the violation of any of the procedural aspects during the domestic enquiry or by respondent nos. 1 to 3 in their respective orders. Opportunity had been granted by the third respondent before differing from the findings of the Enquiry Officer. Explanation had been given by the petitioner herein. After examining the said explanation, the third respondent had imposed a punishment of dismissal from service. The petitioner had filed appeal under Section 153 of the Act. The appellate authority / second respondent had, actually come to the rescue of the petitioner herein by reducing the punishment of dismissal from service to cutting of increment for two years with cumulative effect.



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14. The scope of the revisional authority under Section 154 is very narrow and again since no procedural irregularities had been pointed out, the first respondent had retained the same punishment. Even before this court, the instance of procedural irregularity had not been pointed out.

15. In view of the same, I hold that the punishment imposed does indeed serve the ends of justice and the writ petition stands dismissed. No costs.

09.08.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

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Tiruvallur Region, Tiruvallur.
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C.V.KARTHIKEYAN,J.

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