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W.P.No.12722 of 2013

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12722 of 2013

and

M.P.No.2 of 2013

V.K.Kumaresan

....

Petitioner

Vs

1. The Joint Registrar of Co-operative Societies,
Dharapuram Region,
Appavu Nagar,
Dharmapuri - 636 701.

2. The Joint Registrar/Special Officer,
K.K.349 Dharmapuri District
Central Co-operative Bank,
No.10-H, Nethaji Bye Pass Road,
Dharmapuri - 636 701.

3. The Enquiry Officer/Co-op.Sub Registrar (Retd.)
K.K.349 Dharmapuri District
Central Co-operative Bank,
No.10-H, Nethaji Bye Pass Road,
Dharmapuri - 636 701.

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Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the



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records relating to the Enquiry report dated 19.04.2011 submitted by the 3rd respondent and the impugned order made in Na.Ka.No.247/2009/P2 dated 28.01.2012 passed by the 2nd respondent and the order made in Na.Ka.No.1576/2012/Sa.Pa. dated 05.03.2013 passed by the 1st respondent and quash the same and forebear the petitioner from recovering the penalty imposed by the 1st respondent.

For Petitioner : Mr.G.Ethirajulu
For R1 : Mr.V.Veluchamy
Additional Government Pleader
For R2 : Mr.P.Anbarasan
For R3 : Notice served

ORDER

This Writ Petition has been filed challenging the order dated 05.03.2013 in Na.Ka.1576/2012/Sa.Pa, passed by the first respondent, thereby ordered to stoppage of increment for one year instead of three years.

2. The petitioner worked as Assistant in Avvai Nagar Branch office of Dharmapuri District Central Co-operative Bank during the period from 17.07.1995 to 29.11.1999. During the said period, he was not assigned with any work relating to issue of small scale vendors



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loan or power to verify the documents. It was entrusted only to the Assistant No.2. However, the petitioner was served with charge memo dated 17.06.2009 framing three charges that the Branch Manager viz., M.Sivam has given 375 small scale vendors loan as recommended by Bharatha Seva Kendra without following any guidelines or procedure framed by the Society. The petitioner herein issued loans without knowing the address of the borrowers and their capacity to repay the said loan and thereby caused monetary loss to the tune of Rs.20,27,450/-. The petitioner submitted his explanation dated 24.03.2011. However, it was not satisfied and as such, the second respondent appointed the third respondent as Enquiry Officer. The third respondent conducted enquiry and concluded that the charges were proved against the petitioner.

3. On the strength of the enquiry report, the second respondent issued second show cause notice and without satisfying the explanation submitted by the petitioner passed final order thereby imposed punishment of stoppage of increment for one year with effect from 01.10.2012 and also ordered deduction of increment for the next



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two years from his retirement benefits. Aggrieved by the same, the petitioner preferred a revision before the first respondent under Section 153 of Tamil Nadu Co-operative Societies Act. The first respondent partly allowed the revision and reduced the punishment of stoppage of increment for one year instead of three years by an order dated 05.03.2013 in Na.Ka.1576/2012/Sa.Pa.

4. The learned counsel for the petitioner would submit that the Enquiry Officer did not follow the procedure as contemplated under Section 153 of Tamil Nadu Co-operative Societies Act, during the enquiry. The loan amount itself only to the tune of Rs.6,60,670/-, but the interest of Rs.13,56,745/- added on the principal, in all together Rs.20,27,415/-. In fact, even according to the Enquiry Officer, the petitioner was not in-charge of sanctioning or disbursing the loan amount to the small scale vendors.

5. That apart, the other delinquent challenged the punishment of revoking service by way of revision under Section 153 of



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the Tamil Nadu Co-operative Societies Act and he succeeded in the revision. Insofar as the surcharge proceedings are concerned, he also challenged the surcharge proceedings before the Tribunal and the same was also allowed in CMA (CS) No.10 of 2010 by an order dated 17.11.2011. In fact, aggrieved by the same, the Managing Director filed writ petition before this Court in W.P.No.22842 of 2014 and the same was also dismissed by an order dated 15.05.2017.

6. A perusal of the counter filed by the first respondent revealed that out of 370 loans sanctioned by the petitioner 242 loans were defaulted and not repaid by the borrowers for long time. Therefore, the enquiry was ordered and as per the enquiry report, the disciplinary proceedings was recommended as against the petitioner and four others of Avvai Nagar Branch. After giving all the opportunities and following of mandatory proceedings as contemplated under 153 of Tamil Nadu Co-operative Societies Act, the enquiry officer conducted enquiry and submitted his report. Accordingly, the second respondent imposed punishment on the petitioner and it was reduced by the first respondent.



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The first delinquent viz., M.Sivan was dismissed from service and subsequently, he was reinstated into service by setting aside the order of dismissal by way of revision.

7. Insofar as the surcharge proceedings are concerned, it was also challenged and the same was allowed by the Tribunal and confirmed by this Court. The CMA (CS) No.10 of 2010 was allowed on the ground that the entire loan amounts were recovered from the borrowers and there is no arrears of loan amount. That apart, the petitioner was not interested with any duty while receiving the application for loan and also disbursal of the loan to the applicants. Further, the petitioner was also challenged the surcharge proceedings before the Tribunal and it is pending.

8. In view of the above facts and circumstances, the order dated 05.03.2013 in Na.Ka.1576/2012/Sa.Pa, passed by the first respondent is hereby quashed and accordingly, this Writ Petition stands allowed. It is made clear that the observations made by this Court is no



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way connected to the surcharge proceedings, which is under challenged before the Tribunal. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Lpp

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