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CRP.No.1610 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM:

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

CRP.No.1610 of 2019
and CMP.No.10612 of 2019

P.Chandrabose

... petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Kancheepuram Circle, Kancheepuram,
Kancheepuram District

2.The Joint Registrar / Managing Director,
Kancheepuram District Consumer,
Cooperative Wholesale Store,
Chennai 600 108

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 22.02.2019 passed in CMA.No.21 of 2015 on the file of the Court of Small Causes, Chennai.

For Petitioner : Mr.C.Prakasam

For Respondents

For R1 : Mr.C.Sathish,
Government Advocate

For R2 : Mr.L.P.Shanmugasundaram

ORDER

This civil revision petition has been filed to set aside the fair and decretal order dated 22.02.2019 passed in CMA.No.21 of 2015 on the file of the



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Court of Small Causes, Chennai, thereby confirmed the surcharge proceedings

initiated by the first respondent.

2. The petitioner while working as Salesman in the second respondent, he was put in charge of the Cooperative Society Godown 'B' and 'E'. In the 'E' godown, empty gunny bags were kept, which were collected from various fair price shop run by the Cooperaive Society. The petitioner was on duty to maintain the gunny bags in a proper manner by making entries in the relevant registers. While so, when an inspection was conducted by the second respondent, it was found that the gunny bags were missing to the tune of Rs.29,00,000/-. Therefore, enquiry was ordered by the first respondent as contemplated under Section 81 of the Tamilnadu Cooperaive Societies Act (hereinafter called as 'the Act'). Enquiry Officer conducted enquiry and after giving reasonable opportunity to the petitioner, submitted his report. Based on the report, the first respondent initiated surcharge proceedings against the persons who were responsible for the financial loss caused to the Society. During the course of enquiry and surcharge proceedings, the petitioner had admitted his guilt and repaid the loss amount to the second respondent during the period from 20.05.2013 to 06.02.2015 on four occasions. However, the said amount was repaid in piecemeal in a span of two years and as such, further interest accrued to the tune of Rs.5,48,583/-, for which



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the first respondent issued surcharge order dated 19.08.2015 fixing the liability on the petitioner herein and two others. It was also confirmed by the appellate court.

Aggrieved by the same, the present civil revision petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner was not served copy of the enquiry report under Section 81 of the Act, which caused prejudice to him to attend the proceedings initiated under Section 87 of the Act. The petitioner and other employees repaid the entire shortage amount. In fact, the petitioner was already terminated from service by the proceedings dated 15.04.2015. Aggrieved by the termination order, the petitioner preferred statutory revision and the same has not been disposed of so far. Therefore, no interest can be awarded for the amount which was already paid by the petitioner.

4. Heard, the learned counsel appearing on either side.

5. It is seen that after giving sufficient opportunity to the petitioner, the enquiry officer conducted enquiry and submitted his report. On the basis of the report, the surcharge proceedings was initiated by the first respondent and passed order as against the petitioner and other employees. In fact, the petitioner also paid the amount in four occasions and as such, he is liable to pay interest for the



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amount. Now he cannot take a ground that he was not given opportunity of hearing at the time of enquiry conducted under Section 81 of the Act. In fact, the petitioner submitted his counter in the surcharge proceedings based on the enquiry report. The termination of the petitioner is based on the disciplinary proceedings which is a separate proceedings and it has no bearing on the surcharge proceedings. Therefore, the petitioner cannot mingle the disciplinary action with the surcharge proceedings. Further, the petitioner and others categorically admitted their misappropriation and benefited by huge money. Therefore, the petitioner is liable to pay interest for the amount which was already misappropriated by him. Hence, this court finds no infirmity or illegality in the order passed by the first respondent as well as the court below.

6. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

12.01.2023

Speaking/non-speaking

Index : Yes/No

Internet : Yes

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Court of Small Causes,
Chennai
- 2.The Deputy Registrar of Cooperative Societies,
Kancheepuram Circle, Kancheepuram,
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- 3.The Joint Registrar / Managing Director,
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