



W.P.No.10722 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

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

**W.P.No.10722 of 2014**  
**and M.P.No.1 of 2014**

A.Rangasamy

... Petitioner

-Vs-

1.The Joint Registrar of Co-operative Societies,  
Collectorate Complex,  
Villupuram - 605 602.

2.The Management,  
Thirunavalur Farmers Co-operative Society Limited,  
Thirunavalur and post,  
Ulundurpet Taluk,  
Villupuram District.

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondents particularly that of the first respondent in Na.Ka.998/2010 Sa Pa dated 07.03.2014 and quash the same as illegal and unlawful without jurisdiction and against principles of natural justice and consequentially, direct the respondents to reinstate the petitioner with full back wages, continuity of service and other service benefits from time to time to be stipulated by this Hon'ble Court.



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For Petitioner : Mr.T.S.Rajamohan  
For R1 : Mr.L.S.M.Hasan Fizal  
Additional Government Pleader  
For R2 : Mr.A.Rajaperumal  
for Mr.L.P.Shanmugasundaram

**ORDER**

This Writ Petition has been filed for challenging the order passed by the first respondent dated 07.03.2014, thereby dismissing the revision filed by the petitioner and confirmed the order of dismissal passed by the second respondent dated 27.12.1999.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent and the learned Counsel for the second respondent and perused the materials available on record.

3. The petitioner was originally appointed as Clerk in Thirunavalur Farmers Service Co-operative Limited at Ulundurpet Taluk, Thirunavalur Post, Villupuram. Thereafter, he was posted as Cashier with effect from 16.11.1989. While he was in service, he was suspended



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from service on 28.11.1997, on the ground that he had misappropriated funds of the society by giving false statement. In pursuant to the order of suspension, he was served with a charge memo consisting of 16 charges as follows:-

*“ i. That he misappropriated funds of the society by giving false statement;*

*ii. That since the tractor loan to a sum of Rs.80,483/- together with interest and the default interest was not recovered, along with the Secretary I caused loss to the society;*

*iii. That in respect of the jewel loan that was issued to the brother of Secretary, Nandagopal, since recovery proceedings were not initiated at the appropriate time, I joined hands with the Secretary in causing loss to the society;*

*iv. That in respect of the tractor loan, even though my duty is to write daily chitta, I deliberately ignored the recovery of the tractor rent in a sum of Rs. 19,247/-*

*v. That by spending funds on various heads instead of using them for proper purpose, the Secretary and myself caused loss to the funds of the Society,*

*vi. That in respect of cash credit since the funds that were received by the society were not utilized in a proper manner resulted in payment of default interest to the lending bank. Therefore, I was contributory to the illegality committed by the Secretary;*

*vii. That even though the loan disbursement limit in respect of jewel loan was Rs.25 Lakhs, jewel loan was disbursed Rs.25,31,984.25 therefore, the funds of the society were subjected to misuse and therefore I was contributory said fact along with the Secretary:*



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viii. *That in respect of the advances, they were not recovered and brought to books of accounts. Thus I contributory to the misappropriation committed by the Secretary.*

ix. *That in respect of the daily chittas and the balance of cash on hand which would be kept in safe deposit, instead of doing I kept within myself thereby causing loss to the society,*

x. *The fact that for the year 1995-96 in respect of final audit, wherein the auditor has lodged complaint that accounts were not properly maintained, the same was due to the fact I did not co-operate with the auditor,*

xi. *That in respect of the younger brother of the Secretary, Arumugam false account has been created as if grains loan was granted him and accordingly I acted in connivance with the Secretary;*

xii. *That I acted in connivance with the Secretary in preparing chitta from 01.11.1997 which was not brought to the notice of the Director;*

xiii. *That even though funds were available in respect of the savings account of sugarcane growers, still the funds were withdrawn for payment of bonus and other heads thereby causing loss to the society;*

xiv. *That by receiving the sale proceeds of Rs.15,131/- from the salesman of Serathanur PDS shop without issuing proper receipt, I committed misappropriation;*

xv. *That even though the cash balance of Rs.4,84,150/- in respect of 66 members ought to have been disbursed, only a sum of Rs. 1,80,700/- was disbursed that too only for 24 members;*

xvi. *That by acting against the specific duties and responsibilities, I caused serious mismanagement besides brought bad reputation to the society."*



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4. In respect of the above charges, the petitioner gave his explanation on 06.04.1998. Thereafter, he was also charged with additional charges and he was served with additional charge sheet dated 19.12.1997 consisting of 11 charges as follows:-

*“i. That in respect of loan issued to Murugesan under the TATCO Scheme wherein false accounts were created as if the outstanding is Rs.3,500/- without taking into note of the fact that the member has to pay Rs.9,000/-;*

*ii. That without permission from the Central Bank, loan amount to a sum of Rs.60,825/- was disbursed by the Secretary and I colluded with him for the same;*

*iii. That without permission of the Central Bank and Chengalrayan Co- operative Sugar Mill, the loan amount of Rs.5,650/- was disbursed to one Indirani Member No.6338. Therefore, I colluded with the Secretary and accordingly I am also liable for the loss;*

*iv. That since recovery proceedings were not initiated at the appropriate time, such loan recoveries were barred by limitation;*

*v. That the Secretary Nandagopal issued benami loans in respect of persons belonging to his Village, Devianandal totaling a sum of Rs.1,27,702/-. I colluded with the Secretary for the same;*

*vi. That even though he informed the director on 24.11.1997 that 3 Salesmen deposited Rs.20,951/- there was no such challan to prove the same. Thus, the Secretary committed misappropriation and I colluded with the same;*

*vii. That even though on 28.10.1997 a sum of Rs.11,000/- was drawn for procuring kerosene and the same was not done.*



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*Therefore, I colluded with the Secretary to misappropriate the said amount;*

*viii. That even though the crop loan was not issued in respect of one Anbazhagan, still in the day book entry was made on 01.11.1997 as if loan was issued. Thus, the Secretary committed misappropriation and I colluded with the same;*

*ix. That without disbursing loan to one Perumal, Son of Natesan, in a sum of Rs.2,800/- the said amount was misappropriated by the Secretary and I colluded with the same.*

*x. Even though fertilizer loan was not issued to G. Viswagam a sum of Rs. 13,000/-, still entries were made by the Secretary as if the above sum was disbursed, thus committing misappropriation;*

*xi. That having divested funds from the crop loan account, a sum of Rs.4,56,259.01 became outstanding in respect of the stock in trade accordingly, the Secretary committed misappropriation and I colluded with him.”*

5. The petitioner was served with a show cause notice and he submitted his detailed explanation. Without satisfying with the explanation submitted by the petitioner, domestic enquiry was ordered and accordingly, domestic enquiry was conducted. Though the Enquiry Officer submitted the enquiry report that no charges were proved, the Disciplinary Authority differed with the findings of the Enquiry Officer. Thereafter, the petitioner was served with a show cause notice. On receipt of the same, the petitioner also submitted his explanation and



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thereafter, the Disciplinary Authority passed a final order, thereby dismissing the petitioner from service.

6. The learned counsel for the petitioner would submit that there is no provision under the Tamil Nadu Co-operative Societies Act to differ with the findings of the Enquiry Officer's report by the Disciplinary Authority. In pursuant to the very same set of charges, a criminal complaint was lodged as against the petitioner and the same ended in acquittal.

7. In support of his contention, he relied upon the Judgment of the Hon'ble Division Bench of this Court in ***W.A.No.1229 of 2010*** in the case of ***E.Noormohamed Vs The Manager, Vandavasi Co-operative Marketing Society, Vandavasi and another***, in which the Hon'ble Division Bench of this Court held that there is no provisions under the Co-operative Societies Act enabling the disciplinary authority to differ with the findings of the Enquiry Officer.



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8. He also relied upon the Judgment of the Hon'ble Supreme Court of India in *C.A.No.5128 of 2013* in the case of *S.P.Malhotra Vs Punjab National Bank and others*, in which the Hon'ble Supreme Court of India held that not furnishing the copy of the recorded reasons for disagreement from the enquiry report itself causes the prejudice to the delinquent.

9. Though, there is no provisions under the Co-operative Societies Act for the Disciplinary Authority to differ with the findings of the Enquiry Officer, the Disciplinary Authority can very well differ with the findings of the Enquiry Officer, on condition that the Disciplinary Authority has to give an opportunity to the delinquent to submit explanation for the reasons recorded by the Disciplinary Authority for disagreement from the enquiry report.

10. In the case on hand, the petitioner was given an opportunity by the Disciplinary Authority for differing from the Enquiry Officer's report on 16.10.1999. On receipt of the same, the petitioner submitted his detailed explanations on 02.11.1999 and 17.11.1999. Therefore, the



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petitioner was given an opportunity and only thereafter, the Disciplinary Authority dismissed the petitioner from service. That apart, the petitioner also exonerated the revisional jurisdiction under Section 153 of Tamil Nadu Co-operative Societies Act and the same was also dismissed.

11. Further, the petitioner had misappropriated the society's fund and as such surcharge proceedings was also initiated under Section 87 of the Tamil Co-operative Societies Act, thereby ordered collection order of sum of Rs.7,80,247.11/- from the petitioner.

12. In view of the above, this Court finds no infirmity or illegality in the order passed by the Revisional Authority as well as the Disciplinary Authority and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order  
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**G.K.ILANTHIRAIYAN, J.**

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