



WEB COPY



W.P.Nos.11484 of 2014 & 1618 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2023

CORAM:

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

W.P.Nos.11484 of 2014 & 1618 of 2015 and
MP.Nos.1 of 2014 and 1 of 2015

WP.No.11484 of 2014

The Management,
S 878 Kalvadangam Primary Agricultural
Cooperative Bank Ltd.,
Rep. by its President,
Mettanghadu Village and Post,
Thevur via
Salem District 637 104

... Petitioner

Vs.

1.The Joint Registrar of Co-op Societies,
Salem Region,
Salem
2.I.Venkidusamy

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorari calling for the records of the first respondent in its order in Na.Ka.No.7547/2013/Sa.Pa dated 19.03.2014 and quash the same.

For Petitioner : Mr.C.Munusamy



WEB COPY



W.P.Nos.11484 of 2014 & 1618 of 2015

For Respondents

For R1 : Mr.V.Veluchamy,
Additional Government Pleader

For R2 : Mr.M.Elango

WP.No.1618 of 2015

I.Venkidusamy

... Petitioner

Vs.

1.The Joint Registrar of Co-op Societies,
Salem Collectorate Complex,
Salem

2.The President,
S 878 Kalvadangam Primary Agricultural
Cooperative Bank Ltd.,
Mettangkadu Village and Post,
Thevur via
Salem District 637 104

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the first respondent herein in his proceedings Na.Ka.No.7547/2013 ௪.ப. dated 19.03.2014 insofar as canceling the promotion to the post of Secretary and imposing a punishment of stoppage of increment for two years cumulative effect to the petitioner herein quash the same and to direct the second respondent herein to permit the petitioner in the post of Secretary of the second respondent Society with continuity of service, backwages and other benefits.

For Petitioner : Mr.M.Elango



W.P.Nos.11484 of 2014 & 1618 of 2015

WEB COPY

For Respondents

For R1 : Mr.V.Veluchamy,
Additional Government Pleader

For R2 : Mr.L.P.Shanmugasundaram,
Special Government Pleader

COMMON ORDER

These writ petitions have been filed by the employee and employer challenging the order passed by the first respondent thereby modified the punishment from dismissal from service to stoppage of increment with cumulative effect for a period of two years.

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

3. The petitioner in WP.No.1618 of 2015 is hereinafter called as employee and the petitioner in WP.No.11484 of 2014 is hereinafter called as employer. The employee was appointed as Jewel Appraiser and subsequently he was promoted as Cashier. Thereafter, he was promoted as Assistant Secretary of the management with effect from 01.05.2013. The promotion to the post of Secretary which is the subject matter in



W.P.Nos.11484 of 2014 & 1618 of 2015

both the writ petitions. The employee was served with charge memo that he had erased entry of Secretary (incharge) and had written as promoted as Secretary in the Resolution Register thereby manipulated the minutes book of the management. He was suspended from service. He was served with show cause notice on the basis of the charge memo. On receipt of the same, the employee submitted his explanation that it was happened due to urgency and inadvertence. Therefore he sought for apology and undertaking was given by him that not to indulge in any kind of activity in future. He also had undertaken not to approach any court or appropriate forum for any relief. However, the management appointed enquiry officer and enquiry was conducted.

4 On the enquiry, the enquiry officer found that the charge was proved against him. On the strength of the enquiry report, he was removed from service. Aggrieved by the same, the employee filed revision before the first respondent. The first respondent found that the employee was charged that he had tampered the records by making corrections, and deletion and erasing the entries in the resolution book.



W.P.Nos.11484 of 2014 & 1618 of 2015

However later, the Cooperative Sub Registrar / Administrator himself had countersigned the same and in his proceedings dated 02.05.2013, accordingly the Administrator had passed promotion order to the employee as Secretary. It shows that charges levelled against the employee cannot stand. Further, the order of promotion was issued in violation of Section 149 of Tamilnadu Cooperative Societies Act. Therefore, the first respondent rightly cancelled the order of promotion and imposed punishment of stoppage of increment with cumulative effect for period of two years.

5. The learned counsel for the employee submitted that the enquiry officer failed to examine any one and based on the records order was passed, that too with capital punishment. The petitioner did not obtain any pecuniary advantage by alleged manipulation of records. Even after the order passed by the first respondent, the management failed to reinstate him into service. The Administrator or the Secretary were not examined before the enquiry officer. In support of his contention, he also relied upon the judgment of this Court rendered in the case of



W.P.Nos.11484 of 2014 & 1618 of 2015

K.Manickam Vs. The Secretary to Government, Revenue (Service 7(1))

Department, Chennai in WP.989 of 2015 dated 31.03.2022, in which this Court relied upon the judgment of the Hon'ble Supreme Court of India rendered in the case of ***A.Savariar Vs. The Secretary , Tamilnadu Public Service Commissioner and another*** in Civil Appeal Nos.1078 and 1079 of 2013 dated 15.02.2013 thereby held that the enquiry officer performs a quasi-judicial function and the charges levelled against the delinquent officer must be proved on the basis of the witnesses and mere production of documents in the enquiry will not prove the contents thereof.

6. Whereas on perusal of records, statement of the management and the statement of the employee were recorded by the enquiry officer. Only through them all the documents were given to cross examine. Therefore, it cannot be said that no one was examined by the enquiry officer. Therefore, the judgment cited by the learned counsel for the petitioner is not applicable to the case on hand. Further, the punishment imposed by the management is disproportionate and it would amount to



W.P.Nos.11484 of 2014 & 1618 of 2015

unfair labour practice, illegal and intimidation of employee. Therefore, the first respondent rightly modified the punishment of dismissal from service into stoppage of increment for period of two years with cumulative effect. Hence, this Court finds no infirmity or illegality in the order passed by the first respondent and both the writ petitions fail.

7. Accordingly, both the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

21.07.2023

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



WEB COPY



W.P.Nos.11484 of 2014 & 1618 of 2015

G.K.ILANTHIRAIYAN, J.

lok

To

1. The Joint Registrar of Co-op Societies,
Salem Region,
Salem
2. The President,
S 878 Kalvadangam Primary Agricultural
Cooperative Bank Ltd.,
Mettangkadu Village and Post,
Thevur via
Salem District 637 104
3. The Government Advocate
High Court, Madras.

W.P.Nos.11484 of 2014 & 1618 of 2015

21.07.2023