



W.P.No.20197 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH**

**W.P.No.20197 of 2022**  
**and W.M.P.No.19444 of 2022**

Mr.V.Janarthanan

...Petitioner

Vs

1. The Registrar of Co-operative Society,  
E.V.R.Salai, Kilpauk,  
Chennai – 600 010.
  2. The Joint-Registrar of Co-operative Society,  
Krishnagiri Zonal, Krishnagiri.
  3. The Deputy Registrar of Co-operative Society,  
Krishnagiri Region,  
Krishnagiri Circle,  
Krishnagiri.
  4. The Deputy Registrar/Managing Director,  
Krishnagiri Taluk Agricultural Producers  
Marketing Co-operative Society cum Domestic Enquiry Officer,  
Krishnagiri.
- ...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, call for the records relating to the



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impugned proceedings in Na.Ka.No.1137/2018/Sa.Pa.1 dated 02.03.2021 issued by the 3<sup>rd</sup> respondent to the petitioner.

For Petitioner : Mr.N.G.R.Prasad  
for Mr.D.Ashok Kumar

For Respondents : Mr.P.Baladhandayutham  
Special Government Pleader

### **ORDER**

This writ petition has been filed to quash the impugned proceedings in Na.Ka.No.1137/2018/Sa.Pa.1 dated 02.03.2021 issued by the 3<sup>rd</sup> respondent to the petitioner.

2. The petitioner while serving as a Co-operative Sub-Registrar, was levelled with certain charges under a charge memo dated 02.03.2021, which is impugned in the present writ petition.

3. The learned counsel appearing for the petitioner predominantly raised the ground that along with charge memo, the respondents have not furnished the list of witnesses and therefore, he was deprived of giving an effective explanation.



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4. *Per contra*, the learned Special Government Pleader submits that such witnesses can be brought at a later stage and the petitioner can always participate in the enquiry. He further submits that the Writ Court would not normally interfere in quashing a charge memo.

5. The Hon'ble Supreme Court in the case of '**Roop Singh Negi Vs. Punjab National Bank & others**' reported in '**(2009) 2 SCC 570**', has stated the following:

.... “14. Indisputably, a departmental proceeding is a quasijudicial proceeding. The enquiry officer performs a quasijudicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, *inter alia*, was placed by the enquiry



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*officer on the FIR which could not have been treated as evidence.....”*

6. In the instant case, the respondents have shown two documents in annexure – 3 of the impugned charge memo. I am unable to appreciate that as to how the Enquiry Officer can rely on the documents in the absence of witnesses. This apart, Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, lays down the procedure for conducting an enquiry, by which, the delinquent officer is required to be given an opportunity of cross-examine the witnesses. When the list of witnesses have been shown as Nil, an effective explanation cannot be given by the delinquent officer and therefore the subsequent procedures if allowed to be continued, would stand vitiated.

7. Therefore, in view of the law laid down by the Hon'ble Supreme Court in **Roop Singh's** case, the present impugned charge memo cannot be sustained.



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8. At this juncture, the learned senior counsel appearing for the petitioner submits that owing to the framing of charges, the petitioner was deprived of getting promotion to the post of Deputy Registrar.

9. Now, this Court is quashing the charge memo, the petitioner would be entitled for inclusion of his name in the promotion panel and also for promotion on par with his immediate junior.

10. In the light of the above observations and findings, the impugned order in Na.Ka.No.1137/2018/Sa.Pa.1, dated 02.03.2021 on the file of the third respondent is quashed and there shall be a direction to the first respondent to pass appropriate orders granting all the service and monetary benefits, that the petitioner may have deprived in view of the pendency of the impugned charge memo, including the notional promotional orders to the post of Deputy Registrar, on par with his immediate junior.

11. Such orders shall be passed by the respondents at least within a period of four(4) weeks from the date of receipt of a copy of this order.



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12. Accordingly, this writ petition stands allowed. No costs.

Connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order/Non-speaking order  
mp

To

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**M.S.RAMESH,J.**

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