



W.P.No.5912 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.5912 of 2017

M.Shanmugam

... Petitioner

Vs.

1. The Assistant Director,
Khadi and Village Industries,
Vellore

2. The Chief Executive Officer,
Tamilnadu Khadi and Village
Industries Board,
Kuralagam,
Chennai – 600 108

...Respondents

Writ Petition has been filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records from the 2nd respondent in his proceedings Rc.No.18657/Pen.(2)/2015 dated 26.10.2016 and to quash the same and direct the respondents to disburse the amount of Rs.97,077/- which was deducted from his service benefits and pass further orders.

For Petitioner : Mr.M.Elumalai for
Mr.V.Krishnamoorthy

For Respondents : No appearance



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ORDER

The present Writ Petition has been filed for an issuance of a Writ of Certiorarified Mandamus to call for the records from the 2nd respondent in his proceedings Rc.No.18657/Pen.(2)/2015 dated 26.10.2016 and to quash the same and direct the respondents to disburse the amount of Rs.97,077/- , which was deducted from his service benefits and pass further orders.

2. According to the petitioner, he had been serving in Khadi Board from 21.09.1972 to 30.11.2007 and during the petitioner career, he had been posted as special officer for Edaiyan Sathu Woman Multipurpose Co-operative Society from 1985-1986. The petitioner had been serving in Kadhi Board for 35 years and retired from service on 30.11.2007, however, sanction was accorded for the payment of pension benefits on 26.10.2016. Further, the petitioner was shocked to notice that a sum of Rs.97,725/- [due from the Edayamsattu Women Co-operative Society to the Khadi Board for the year 1989-1991] had been deducted from the petitioner's terminal benefits without furnishing any information / notice to the petitioner. The said society has immovable property in different places and also movable asset worth more than One Lakh Rupees. The Board also



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has not taken any steps to recover the said due amount from the society for 30 years. As per the said G.O., of the Board No.16 dated 08.04.2002 Kodambakkam, Pottery Co-operative Society, the service charge of 1% had been calculated and arrived at Rs.1383/- only. But it was calculated as 3% and arrived at Rs.4148/- and already collected Rs.3500/- from the society and contrary to the said Board's proceedings M.S.No.16/09/2002 was collected excessively but the record shows that Rs.648/- is still pending as due from the society, which is not correct. Further, the learned counsel for the petitioner has relied on the Judgment of Hon'ble Division Bench of this Court in W.A.No.1395 of 2021 dated 25.08.2021 [The Management, V.T.742 Thiruvannamalai District Consumer Co-operative Wholesale Stores Ltd., Thiruvannamalai District Vs. R.Dhayalan and another] to substantiate his case, thereby pleaded to allow the present petition.

3. Though there is no representation on the side of the respondents, a counter affidavit has been filed on behalf of the 2nd respondent, wherein it is stated as follows:-

(i) As per the orders issued in K.B.P.Ms.No.139 dated 31.05.1991, the co-operative Societies functioning under the control of Khadi Board should pay 3% towards service charges for the transaction made in the



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societies. Further, specific instructions was issued by the respondent that the Special Officer of the concerned co-operative society should collect 3% service charges from the co-operative societies while according permission for the withdrawal of the amount by the co-operative societies. Accordingly, the petitioner while working as Special Officer of the said society ought to have deducted 3% service charges while giving withdrawal permission to the above society. But against the instructions, the petitioner had failed to collect the 3% service charges to the tune of Rs.5,82,097/- from five societies.

(ii) Since the petitioner had failed to collect the service charges from the above societies as per the orders of the Board, a memo was issued by the 1st respondent vide Rc.No.1225/2007/C dated 22.08.2007 directing the petitioner to collect the outstanding service charges amount to the tune of Rs.5,82,097/- due to the Board from the above co-operative societies and if he fails to collect the amount from the societies, the entire responsibility will be fixed on the petitioner and the amount due from the societies. Further, the petitioner has failed to collect the service charges during his service from the Edayansanthu Women Multipurpose Industrial Co-operative society at the time of giving withdrawal permission and the same could not be collected even after 20 years. Since there is no asset to the society and



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the society became dormant and thereafter liquidated, the petitioner having received the memo issued by the 1st respondent and could not give convincing explanation for his lapses, an order of recovery was passed towards non-collection of service charges from the petitioner.

4. Heard the learned counsel for the petitioner and perused the documents placed on record.

5. It is relevant to point out that the Judgment referred supra by the learned counsel for the petitioner squarely applies to the case on hand, wherein Section 87 of the Tamilnadu Co-operative Societies Act, deals with the surcharge proceedings, itself provides for recovery of the quantified amount from the employee by invoking the Tamilnadu Revenue Recovery Act, 1864 treating the same as an arrear of land revenue.

6. Applying the said principles laid down by the Hon'ble Division Bench of this Court in the judgment referred supra, the proceedings passed by the 2nd respondent dated 26.10.2016 is hereby quashed and the respondents are at liberty to initiate recovery proceedings by invoking Tamilnadu Revenue Recovery Act, 1864 and pass appropriate orders after issuing notice to the petitioner within a period of twelve weeks from the



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date of receipt of copy of this order.

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In view of the above, the present Writ petition is disposed of. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order
ssd

To

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V.BHAVANI SUBBAROYAN, J.,

ssd

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