



W.A.(MD).No.218 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).No.218 of 2020
and
C.M.P.(MD).No.1501 of 2020

0.184, A.K.L Cooperative Stores Ltd.,
Mini Super Market,
Arumuganeri – 628 202,
Tuticorin District,
The Special Officer.

.. Appellant/1st Respondent

Vs.

1.Narayanamoorthy

.. 1st Respondent/Writ Petitioner

2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Thoothukudi.

3.The Joint Registrar of Co-operative Societies,
Thoothukudi District,
Thoothukudi.

.. 2nd and 3rd Respondents/
Respondents 2 & 3

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 14.11.2019 passed by this Court in W.P.(MD).No. 6152 of 2011 and dismiss the Writ Petition.



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For Appellant : Mr.M.Jerin Mathew
For R-1 : Mr.A.Prasanna Rajadurai
For R-2 & R-3 : Mr.T.Amjad Khan
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.)

The Writ Appeal has been instituted against the order dated 14.11.2019 passed in W.P.(MD).No.6152 of 2011.

2. The writ appellant is the first respondent in the Writ proceedings. The first respondent was an employee of the appellant Co-operative Stores Limited. Departmental disciplinary proceedings were initiated against the first respondent by framing charges. Not satisfied with the explanation, the disciplinary authority appointed an Enquiry Officer and conducted domestic enquiry. The first respondent employee remained *ex parte* and the Enquiry Officer submitted his final report, which was accepted by the disciplinary authority. Punishment of dismissal from service was imposed on 26.11.2008. A criminal case was registered simultaneously against the first respondent in Crime No.354 of 2007.



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3. Admittedly, the criminal case ended with an order of acquittal.

However, the departmental disciplinary proceedings was conducted by following the procedures as contemplated and by conducting a domestic enquiry. The first respondent filed a revision under Section 153 of the Tamil Nadu Co-operative Societies Act and the Revisional Authority confirmed the punishment of dismissal. Thus, the first respondent preferred review under Section 154 of the Act and the punishment was finally confirmed by the Reviewing Authority also. Thereafter, the first respondent filed a Writ proceedings challenging the order of dismissal.

4. The learned Single Judge considered the issues and set aside the punishment of dismissal on the sole ground that the writ petitioner was acquitted in the criminal case by order of acquittal dated 07.02.2019. Thus, the Society preferred the present Writ Appeal.

5. The learned counsel for the first respondent strenuously contended that the criminal case was decided on merits and the charges both in the criminal case as well as in the departmental disciplinary proceedings are one and the same and therefore, the learned Single Judge is right in setting aside



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the order of dismissal based on the order of acquittal granted by the competent Court of law.

6. A question arises whether acquittal in a criminal Court could be a ground to seek exoneration from the departmental proceedings. The principles are now settled by the Courts. An order of acquittal in a criminal case cannot be an automatic exoneration from the departmental disciplinary proceedings. The procedures contemplated both in criminal case and departmental proceedings are distinct and different. Strict provision is required to convict a person in a criminal case. However, preponderance of probabilities are enough under the Discipline and Appeal Rules. Therefore, mere acquittal in a criminal case is not a ground to grant exoneration from the departmental proceedings and even a moral turpitude and a misdirection would be sufficient to punish an employee under the Service Rules in force. Therefore, the learned Single Judge has erred in setting aside the order of punishment of dismissal merely on the ground that the first respondent employee was acquitted in a criminal case.



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7. More so, in the present case, the order of dismissal was not passed based on the criminal proceedings, but an independent domestic enquiry was conducted by framing charges and the report of the Enquiry Officer was accepted by the disciplinary authority and thereafter, punishment of dismissal was imposed. Further, the revisional authority as well as the reviewing authority under the Tamil Nadu Co-operative Societies Act confirmed the punishment of dismissal from service, taking note of the proved charges against the first respondent. This being the factum, setting aside the order of dismissal is not in consonance with the provisions settled in the matter of disciplinary proceedings.

8. Accordingly, the order impugned dated 14.11.2019 passed in W.P. (MD).No.6152 of 2011 is set aside and the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(S.M.S.,J.) (V.L.N.,J.)
04.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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To

1.The Deputy Registrar of Co-operative Societies,
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Thoothukudi.

2.The Joint Registrar of Co-operative Societies,
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