



W.P.(MD) No.11405 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.11405 of 2020 and
WMP(MD) Nos.9982 & 9985 of 2020

S.Gurumoorthy

... Petitioner

-VS-

1.The State of Tamil Nadu Represented by

its Principal Secretary to Government

Cooperative, Food and Consumer Protection Department

Fort St. George, Chennai.

2.The Registrar of Cooperative Societies,

170 EVR Road

Poonamallee High Road,

Kilpauk, Chennai.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying
for issuance of Writ of Certiorarified Mandamus to call for the records



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pertaining to the impugned order of the respondents in G.O.Ms.(D) No.257 dated 28.12.2017 and G.O.Ms.(D) No.29 dated 11.02.2020 and quash the same and consequently directing the respondents to consider the promotion of the petitioner as Additional Registrar of Cooperative Societies on par with juniors in accordance with law with all monetary benefits including the arrears, increments etc.

For Petitioner : Mr.S.Ramsundarraaj

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

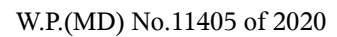
This writ petition has been filed challenging the impugned order of the respondents in G.O.Ms.(D) No.257 dated 28.12.2017 and G.O.Ms.(D) No.29 dated 11.02.2000 and for a direction to the respondents to consider the promotion of the petitioner as Additional Registrar of Cooperative Societies on par with juniors in accordance with law with all monetary benefits including the arrears, increments etc.



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2. The case of the petitioner is that he is now working as Regional Joint Registrar of Cooperative Societies, Nagercoil. While he was serving as a Managing Director of the District Cooperative Bank, Virudhunagar, he was holding additional charge as in-charge officer of Regional Joint Registrar of Cooperative Societies, Virudhunagar. His period of service in the said place is between 30.10.2012 and 23.02.2016. While so, a charge memo under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued to the petitioner stating that the petitioner has lack of supervision over the functions of the cooperative societies and thereby irregularities were committed in the said societies, which are under his control, thereby the petitioner has not taken any disciplinary action against the officials. An explanation was given to the charge memo on 27.04.2015 stating that during the said period, the petitioner was not at all the in-charge officer of the said societies and he refuted all the allegations. Not being satisfied with the explanation submitted, an enquiry officer was appointed and on conclusion of the enquiry, the enquiry officer gave a report stating that the charges were proved, however, without conducting any oral enquiry and only based on documents, the enquiry officer has given



3. The learned counsel for the petitioner would submit that as per the petition, admittedly, one Ramakkal, who is the daughter of the petitioner, Janaki Ammal initially made a complaint on 19.06.2012, as if the cashier Ramasubbu and Chinnathambi, who has signed as witnesses, had withdrawn the fixed deposit amount of Rs.30,17,674/-, therefore the petitioner Ramakkal made a complaint on 19.06.2012 and then the Deputy General Manager of Cooperative Societies forwarded the same for appropriate action on 01.08.2012 and subsequently the petitioner has taken effective steps to conclude the disciplinary proceedings against the erring officials.



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and the same was concluded against them. It is submitted that the petitioner diligently acted and the allegation of misappropriation of funds of Janakiammal had happened much prior to the petitioner's taking charge and therefore, the initiation of disciplinary action, the punishment imposed, confirmed by the first respondent need interference. It is his further submission that when the petitioner was not deputed to the said Societies at the relevant point of time, the misappropriation of funds and the proven minute drawn by the enquiry officer is liable to be set aside.

4. The learned Additional Government Pleader, by filing a counter affidavit, would submit that considering the veracity and imputation of charges, the punishment was imposed. Since the lack of supervision is a major violation, the punishment imposed is in consonance with the charges framed. He would further submit that the petitioner has raised only flimsy grounds on which basis, the punishment need not be interfered with. He concluded his arguments by stating that after framing charges and on conducting enquiry, the punishment was imposed and hence, no interference is warranted.



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5. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents and perused the materials available on record.

6. The petitioner's position as Managing Director at the relevant point of time and his position as in-charge of the cooperative societies under his control are not disputed. From 30.10.2012, he was holding full additional charge of the Regional Joint Director of Virudhunagar Cooperative Societies. At the relevant point of time, on a complaint received from Ramakkal, who is the daughter of the deceased Janakiammal, it came to light that the cashier Ramasubbu and Chinnathambi, who stood as witnesses withdrawn the fixed deposit amount in M.Reddiapatti Primary Cooperative Credit Society in Srivilliputhur. Though the said complaint was given on 19.06.2012, the petitioner was deputed as in-charge of the said Society on 30.10.2012. The allegation made against the petitioner is that he has failed to monitor the subordinates and dereliction of duty and he is acted in violation of Rule 21 of the said Rules, thereby a charge memo was issued



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on 09.02.2015. The petitioner submitted his explanation on 27.04.2015 and on 06.07.2017 written explanation was submitted before the enquiry officer. It is also an admitted fact that the enquiry officer drawn a proven minute against the petitioner as if the charges are proved and further show cause notice was issued, thereafter, the original authority imposed a punishment of stoppage of increment for a period of one year with cumulative effect, which was also confirmed by the appellate authority.

7. The issue arises in the present writ petition is as to whether the petitioner is responsible for irregularities committed by the subordinates and whether any lack of supervision on the part of the petitioner to fail to supervise and whether the petitioner has taken effective steps to take action against the erring officials in proper manner or not. Though in the explanation, it is stated that prior to taking charge as Joint Registrar of Cooperative Societies, the then in-charge deputy registrar on 01.08.2012 issued direction to the special officer of the respective bank not to disburse amount till getting expert opinion for the signatures with regard to withdrawal of the fixed deposit of Janakiammal and therefore, issued a



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stoppage of payment and immediately thereafter, the petitioner joined duty on 30.10.2012. Thereafter on 01.07.2013, he ordered for appropriate enquiry. When already the in-charge officer has taken effective steps, after joining duty, the petitioner has nothing to do with the same. In view of the above, there is no lack of supervision on the part of the petitioner and the petitioner has claimed that he is only a part time officer and not the full time in-charge officer and due to burden of work, he has not taken steps immediately after joining duty.

8. It is seen that none of the officer has taken steps with regard to the complaint given by the said Ramakkal and the same was forwarded to the Registrar of Cooperative Societies and thereafter on registration of complaint, vide order dated 04.07.2012 and a report was taken much later. There is no proper explanation from the petitioner as to not taking action immediately after he assumed the charge. The petitioner assumed charge on 30.10.2012 and the action was taken on 01.07.2013. Further, the original authority has imposed a minimum punishment of stoppage of increment for one year, which was confirmed by the appellate authority and the same need



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not be interfered with.

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9. Accordingly, the writ petition fails and the same is dismissed.

No costs. Consequently connected Miscellaneous Petitions are closed.

11.01.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

RR

To

1. The Principal Secretary to Government
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M.DHANDAPANI, J.

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