



W.P.(MD).Nos.7574 and 7613 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD) Nos.7574 and 7613 of 2019

W.P.(MD).No.7574 of 2019

V.Veeramani

... Petitioner

Vs.

- 1.The Secretary to Government,
Co-Operation,
Food and Consumer Protection Department,
Fort St.George, Chennai – 9.
- 2.The Registrar of Co-Operative Societies,
Kilpauk, Chennai – 10.
- 3.The Joint Registrar of Co-Operative Societies,
Tirunelveli Region,
Tirunelveli.

... Respondents



W.P.(MD).Nos.7574 and 7613 of 2019

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in G.O(D) No.85 Co-Operative Food and Consumer Protection (CL1) Department, dated 17.04.2017 on the file of the first respondent and quash it so far as recovery of Rs.1,000/- from the petitioner's pension and consequently direct the respondents to refund the recovered amount.

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V.Veeramani

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by the Secretary to Government,
Food and Co-Operation Department,
Secretariat, Chennai.

2.The Registrar of Co-Operative Societies,
Kilpauk, Chennai – 10.

... Respondents



W.P.(MD).Nos.7574 and 7613 of 2019

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in G.O.MS. No.136 Co-Operative Food and Consumer Protection (CL1) Department, dated 26.07.2018 on the file of the first respondent and quash the same as illegal and consequently directing the respondents to give notional promotion on par with the petitioner's junior to the post of Deputy Registrar of Co-Operative Societies within time frame to be fixed by this Court.

For Petitioner : Mr. S.Kumar
(in both petition)

For Respondents : Mr. S.R.A.Ramachandran
(in both petition) Additional Government Pleader

COMMON ORDER

The writ petition in W.P(MD) No.7574 of 2019 has been filed challenging the order passed in G.O.(D) No.85 Co-Operative Food and Consumer Protection (CL1) Department dated 17.04.2017 on the file of the first respondent, whereby the petitioner was imposed with punishment of recovery of Rs.1,000/- from the petitioner's pension. Based on this punishment the petitioner did not get promotion. Hence, the petitioner has filed another writ



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petition in W.P(MD) No.7613 of 2019, challenging the order in G.O.MS. No. 136 Co-Operative Food and Consumer Protection (CL1) Department dated 26.07.2018 on the file of the first respondent and quash the same as illegal and consequently directing the respondents to give notional promotion on par with the petitioner's junior to the post of Deputy Registrar of Co-Operative Societies within time frame to be fixed by this Court.

2. The facts in both the Writ Petitions are one and the same. Hence, both the Writ Petitions are taken up together and a common order is passed.

3. The petitioner was selected and appointed as Junior Inspector of Co-operative Society through TNPSC and he joined service on 12.03.1979. He was promoted as Senior Grade Inspector in 1982 and then to the post of Co-Operative Sub-Registrar in 1993 and in 2003 Selection Grade scale of pay in the post of Cooperative Sub-Registrar was given to the petitioner. He had been in Co-Operative Department service for the past 32 years and had attained superannuation on 31.05.2012.



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5. Now the contention of the petitioner is that without giving due consideration of the order of the Division Bench, the petitioner was imposed with the punishment of cut in pension of Rs.1000/- per month for a period of two years. Hence, the Writ Petition in W.P(MD) No.7574 of 2019 was filed challenging the impugned order, dated 17.04.2017.

6. Further contention of the petitioner is that he is eligible to the post of Deputy Registrar of Co-Operative Society. Because of the punishment, he had lost his chance. Hence, narrating the entire facts, the petitioner has sent a detailed representation, dated 20.01.2011 to promote him to the said post. Since the same was not considered, the petitioner has filed W.P.(MD) No.1744 of 2011, this Court vide order, dated 26.03.2018, directed the second respondent to consider the petitioner's representation. Since no action was taken, the petitioner preferred another representation, dated 23.05.2018. In pursuance of the same, the first respondent rejected the petitioner's request vide impugned order in G.O.MS.No. 136 Co-Operative Food and Consumer Protection (CL1) Department dated 26.07.2018. Aggrieved over the same, W.P(MD) No.7613 of 2019 has been filed.



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7. The respondents have filed a counter affidavit in both the Writ Petitions stating that the allegations against the petitioner is serious in nature. With the corrupt motive and abusing the official position, the petitioner had demanded money and the same was proved. Charge No.1 and 2 related to the demand of bribe was also proved. In fact, in Charge No.3, the enquiry officer has categorically held that the petitioner has sanctioned the housing loan for twelve ineligible persons, who were already having houses. The scheme is only to grant the land to the persons, who are not having any house. Since the charges are proved, the petitioner was imposed with punishment. Since by that time the petitioner has retired from the service, the punishment of cut in pension was imposed. The respondents after going into the enquiry report, after perusing the documents and relevant evidence, imposed the punishment upon the petitioner. Hence, the respondents prayed to dismiss these writ petitions.

8. Heard Mr.S.Kumar, the learned counsel appearing for the petitioner and Mr.S.R.A.Ramachandran, the learned Additional Government Pleader for the respondents and perused the records.



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9. The respondents have framed three charges against the petitioner. In the enquiry, first two charges were held “not proved” and only third charge is held to be proved. The third charge is divided into two as charge No.3A and 3B. As far as the charge No.3A is concerned, with the corrupt motive and by abusing the official position, the petitioner during 1998 and 1999 had sanctioned housing loan to twelve ineligible persons. As per the Rural Housing Scheme, the loan amount was also disbursed from the Tamil Nadu Housing Federation to the respective Taluk Co-Operative Housing Society for disbursement to the members in three installments. After disbursement of first installment, the Co-Operative Sub Registrar (Housing) had to visit the site of the members to confirm the construction of houses and recommend for further payment of second installment of the loan. After disbursement of second installment, he has to visit the spot and ensure the construction has been completed up to roof level. Then only he has to recommend for the issuance of third installment of loan. After the disbursement of third installment of loan also, he has to visit the spot and ensure the completion of construction of the house by the member. As far as the Charge No.3B is concerned, by sanctioning the loan to the said twelve persons, the petitioner has violated the instruction



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and guidelines issued by the Government, thereby, violated the rule 20 of Tamil Nadu Service Conduct Rule 1973. On perusal of these two charges, it is seen that both arises on the same transaction. During the enquiry, the petitioner has taken a plea that he is not the sanctioning authority for disbursement of the loan. The petitioner has only recommended to the Government, thereafter, the decision will be taken up by the Government. It will be disbursed based on the decision of the Government. The petitioner is only the recommending authority. Actually, the charges were framed against the petitioner, as if the petitioner has disbursed the loan on his own without considering the Board. When mistake was pointed out by the petitioner before the enquiry, the respondents had rephrased the charge by stating that he was instrumental for sanctioning the loan. The relevant portion of the order is extracted hereunder:

“However, it is clear in the circumstances that even if the A.O had merely recommended the sanction of loans to ineligible persons he would still attract the very same charge of lack of integrity and/or lack of devotion to duty under the very same Rule 20 of the Conduct Rules, and would still be equally liable.”



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10. However, it is clear in the circumstances that even if the petitioner is merely recommended the sanction of loans to ineligible persons, he would still attract the very same charge of lack of integrity and/or lack of devotion to duty under the very same Rule 20 of the Conduct Rules and would still be equally liable.

11. This Court is of the considered view that charges are framed against the petitioner is different. The enquiry was conducted on different allegations. On further perusal of the enquiry report, it is seen that the petitioner is only a recommending authority. Even though the petitioner has knowledge about the scheme that is applicable only for construction of new houses, he has sanctioned loan for the twelve ineligible persons, who are already having houses. Therefore, the petitioner has violated the scheme and the condition prescribed for the said scheme. But as rightly pointed by the petitioner that even though the petitioner is only a recommending authority and the final decision ought to have taken by the Board, the Board ought not to have sanctioned the loan. When the Board is also having knowledge regarding the persons, who are already having houses, the punishment awarded to the



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petitioner is disproportionate. Hence, this Court is inclined to modify the punishment as stoppage of increment for one year without cumulative effect. The original order of punishment was passed in the year 2006. Hence, the stoppage of increment in the year shall take from 2006 to 2007.

12. The petitioner sought for consequential promotion. The promotion was not granted, because of the pendency of the departmental proceedings and subsequent punishment. The learned counsel appearing for the petitioner submitted that since the punishment was granted in the year 2006, promotion was not granted. Since this Court has reduced the punishment for the period of one year without check period, the petitioner is entitled to consider the promotion in the year 2008 and 2009. Therefore, the respondents are directed to fix the petitioner's name on par with the petitioner's junior to the post of Deputy Registrar of Co-Operative Societies for the year 2008 - 2009 and grand notional promotion. However, the petitioner is not entitled for monetary benefits for the year 2008 - 2009 onwards and the same shall be given effect in the pensionary benefits alone. Hence, the impugned orders, dated 17.04.2017 and 26.07.2018 are quashed. The said exercise shall be completed within a period of eight



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weeks from the date of receipt of copy of this order.

13. With this above observation and direction, these Writ Petitions are allowed. No costs.

27.01.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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