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W.P.(MD)No.16473 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.16473 of 2016

and

W.M.P.(MD)Nos.12036 and 12037 of 2016

P.Ravichandran (Died)

- 1.Aruna Ravichandran
- 2.Hemapriya
- 3.Aswin Priya
- 4.P.Saroja

... Petitioners

vs.

- 1.The Secretary to Government
of Tamil Nadu,
Cooperative Food and Consumer
Production Department,
Secretariat, Fort St. George,
Chennai - 600 009.



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- 2.The Joint Registrar /Review Officer,
Cooperative Societies,
Regional Joint Registrar Office,
Pudukkottai.
- 3.The Joint Registrar /Revisional Officer,
Cooperative Societies,
Regional Joint Registrar Office,
Pudukkottai.
- 4.The Administration/ Special Officer,
Joint Registrar / Managing Director,
Thiruchirappalli District Central
Cooperative Bank Limited,
Thiruchirappalli.

... Respondents

***(P1 to P4 substituted, vide order, dated
13.02.2023, in W.M.P.(MD)No.323 of 2021,
in W.P.(MD)No.16473 of 2016)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order No.0623/10-11A10, dated 25.06.2011, passed by the 4th respondent and confirmed by the 3rd respondent in Na.Ka.No.4408/2012A2, dated 25.08.2014 and confirmed by the 2nd respondent in Na.Ka.No.666/2015A2, dated 16.02.2016 and confirmed by the 1st respondent in letter No.9059/C IP B1/2016/1,



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dated 30.06.2016 and to quash the same and consequentially, to direct the respondents to reinstate the petitioner in service with consequential benefits.

For Petitioners : Mr.T.Antony Arul Raj
For R1 to 3 : Mr.A.Baskaran
Additional Government Pleader
For R4 : Mr.D.Shanmugaraja Sethupathi

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order, dated 25.06.2011 passed by the 4th respondent and confirmed by the 3rd respondent, dated 25.08.2014 and confirmed by the 2nd respondent, dated 16.02.2016 and confirmed by the 1st respondent, dated 30.06.2016 and consequentially, to direct the respondents to reinstate the petitioner in service with consequential benefits.



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2. The petitioner joined the 4th respondent Co-operative Society Bank as Assistant on 01.07.1998. On 16.09.2009, the charge memo was issued alleging the petitioner misappropriated a sum of Rs.11,000/- on 06.07.2009. The petitioner remitted the same on 17.09.2009. Thereafter, two other charge memos, dated 16.07.2010 and 31.01.2011, were issued, whereby it was alleged that the petitioner belatedly accounted the amount which was remitted by the customers namely, Anandan, Karuppasamy, Kaalichelvi and Thavasi. Thereby, temporarily misappropriated a sum of Rs.50,000/-. The petitioner submitted an explanation. Thereafter, the respondents appointed an enquiry officer, who submitted a report on 16.05.2011 holding that all the charges are proved. A second show cause notice, dated 25.05.2011, was issued whereby the petitioner was granted three days time to submit a reply. The petitioner submitted a letter seeking extension of time. Finally, the 4th respondent passed an order, dated 25.06.2011 and imposed a punishment of termination from service.



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3. The contention of the petitioner is that the said order is without any material and it is very vague. The petitioner filed an appeal to the 3rd respondent under Section 153 of Tamil Nadu Cooperative Societies Act, 1983 and the same was dismissed on 25.08.2014. The petitioner invoked review under Section 154 and the same was dismissed. The petitioner also preferred an appeal and the same was also dismissed, vide order, dated 30.06.2016. Aggrieved over the same, the present writ petition is filed.

4. The respondents have filed counter affidavits stating that the charges against the petitioner are serious in nature. The petitioner without accounting the amount which was deposited by the members, violated the standing orders and thereby committed temporary misappropriation. Initially, the petitioner misappropriated Rs.11,000/- on 06.07.2009 and when it was pointed out by the respondents, then the petitioner immediately remitted back the amount in the year



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5. When the writ petition was pending before this Court, the petitioner died on 12.12.2018. So, the deceased petitioner's legal heirs have filed a substitution petition and the same is allowed by this Court.

6. Heard Mr.T.Antony Arul Raj, learned Counsel appearing for the petitioners, Mr.A.Baskaran, learned Additional Government Pleader appearing for respondents 1 to 3 and Mr.D.Shanmugaraja Sethupathi, learned Counsel appearing for the 4th respondent and perused the records.

7. The learned Counsel appearing for the petitioner submitted that the appointing authority has passed a one page order. The authority has not discussed any of the charges and has not passed any reasoned order. The order only states that the petitioner had accepted the charges and the enquiry officer's report held the charges are proved, hence the punishment is imposed. The relevant portion of the order, dated 25.06.2011 is extracted here under:



மேலும் பார்வை 9-ல் காணும் ஆய்வு குழுவின் அறிக்கையின்படி பார்வை 10-ல் காணும் கூடுதல் குற்றச்சாட்டு குறிப்பானை பிறப்பிக்கப்பட்டு விளக்கம் பெறப்பட்டு விளக்கம் ஏற்கப்படாததால் தனி அலுவலர் அவர்களின் 28.03.2011-ம் தேதிய உத்தரவின் படி நடைபெற்ற உள்விசாரணையில் அனைத்து நற்சாட்டுகளும் நிரூபிக்கப்பட்டுள்ளது.

வங்கியின் உதவியாளர்/காசாளர் திரு. ப்.பி.ரவிச்சந்திரன் (தர்காலிக பனி நீக்கத்தில் உள்ளவர் தான் பணிபுரியும் வங்கிக்கு வாடிக்கையாளர்களுக்கும் நம்பிக்கைக்கு பாத்திரமாக இருந்து செயல்பட வேண்டியவர். ஆனால் இவர் உப்பிலியாபுரம் கிளை பாதுகாப்பு பெட்டகத்திலிருந்து தொடர்பை கையாடல் செய்தும், தோகைமலை கிளையில் வாடிக்கையாளர் சேமிப்புக்கு கணக்கில் மோசடி செய்தும், அன்றாட வரவு செலவுகளில் தொகை கையாடல் கிளை ஆவணங்களை திருத்தியும் அளித்தும் கடும் குற்றச்சாட்டுகள் புரிந்துள்ளார்.

உப்பிலியாபுரம் கிளை நிதிமோசடி தொடர்பாக 05.07.2010-ம் தேதியில் திரு. ப்.பி.ரவிச்சந்திரன் அளித்துள்ள அலுத்து மூலமான விளக்கத்தில் தனது குடும்ப வறுமை, குடும்ப சூழ்நிலை மற்றும் தனது மனக்குழப்பம் காரணமாக இச்செயலை புரிந்துள்ளதாக ஒப்புக்கொண்டுள்ளார். உள்விசாரணையிலும் இவர் மீதான குற்றச்சாட்டுகள் அனைத்தும் நிரூபணமாகியுள்ளது. மேலும் தோகைமலை கிளையின் நிதிமோசடி தொடர்பாக இவர் மீது சுமத்தப்பட்டுள்ள குற்றச்சாட்டுகளும் உள்விசாரணையும் நிரூபணமாகியுள்ளது.

இவர் இது போன்ற நிதிமோசடி, கையாடல் ஆகியவற்றை தொடர்ந்து செய்து வருகிறார். இவருடைய செயல்பாடுகள் வங்கியின் நற்பெயருக்கு களங்கம் ஏற்படுத்தும் வகையில் அமைந்துள்ளது. எனவே இவரை 25.06.2011 பிற்பகல் முதல் நிரந்தர பணிநீக்கம் (Termination of Services) செய்து ஆணையிடப்படுகிறது.



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8. On perusing the above said order, the deceased petitioner has stated that due to confusion in his mind because of his family circumstances he has committed the mistake. Therefore, this Court is of the considered opinion that the appointing authority ought to have taken the mental status of the deceased petitioner and imposed some lesser punishment.

9. The respondents submitted that the charges are very serious in nature, it is not only temporary misappropriation but the petitioner has created certain documents and destroyed certain for which he relied on the list of documents that is annexed along with the enquiry officer's report wherein under Serial No.1, it has been stated as under:

“05.04.2010-ம் தேதிய காசாளரின் *Scroll* பதிவேடு சேமிப்பு கணக்கு எண்.111 பேரேடு, கணக்கு எண்.111 ஆனந்தம் பாஸ்புத்தகம் மற்றும் வாடிக்கையாளர் 05.04.2010-ம் தேதி தொகை செலுத்திய செலான் ஆகியவற்றின் நகல்கள்.”



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10. On hearing the rival submissions of both the sides, this Court is of the considered opinion that the deceased petitioner has indulged in destroying the documents as well. Therefore, it is not a question of misappropriation but also a question of destroying the vital evidences.

11. However, the learned Counsel for the petitioners submitted that the deceased petitioner has deposited the amount which has been alleged as misappropriation and there is no loss to the Bank. Also taking note of the fact of petitioner's death into consideration and as the deceased petitioner has served for more than 13 years, this Court is inclined to modify the punishment as compulsory retirement fixing the period of service from 01.07.1998 (date of joining the service) to 25.06.2011 (date of passing the impugned dismissal order). The respondents are directed to implement this order and pay the consequential benefits to the legal heirs of the deceased employee. The said exercise shall be



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completed within a period of twelve weeks from the date of receipt of a copy of this order.

12. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

13.02.2023
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