



W.P(MD)No.17975 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 15.11.2022

Pronounced on : 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25625 of 2019

and

W.M.P.(MD)Nos.22189 and 22190 of 2019

T.Sundaram

... Petitioner

Vs.

1.The Registrar,
Cooperative Societies,
Kilpauk, Chennai.

2.The Joint Registrar of Cooperative Societies,
Dindigul Region, Dindigul.
*(R2 is amended vide order dated 05.07.2022
in W.M.P.(MD)No.9943 of 2022 in
W.P.(MD)No.25625 of 2019 by MSRJ)*

3.The Chairman,
The Madurai District Central
Cooperative Bank Limited,
187, North Veli Street,
Madurai – 1.

4.The Special Officer,
The Madurai District Central
Cooperative Bank Limited,



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187, North Veli Street,
Madurai – 1.

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5. The Madurai District Central
Cooperative Bank Limited,
187, North Veli Street,
Madurai – 1,
Rep. by its Executive Committee.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of dismissal passed by the 2nd respondent in Na.ka.No.1615/2018/Sapa, dated 09/2019 signed on 23/09/2019 confirming order passed by the appellate Authority/5th respondent vide resolution dated 19/07/2019 and order by the disciplinary authority /3rd respondent in Na.Ka.79/2013-14.E.1 dated 27/08/2015 and quash the same as illegal and consequently direct the respondents herein to reinstate the petitioner into service with all monetary benefits and back wages within the time limit fixed by this Court.

For Petitioner : Mr.S.M.Ramasiva

For Respondents : Mr.R.Ragavendran,
Government Advocate for R1.
Mr.S.Seenivasagan for R2.



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ORDER

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The writ petitioner was appointed as Junior Assistant on 31.01.1989 in Madurai District Central Cooperative Bank, Palani Branch, Dindigul District. He became Assistant Manager in the year 2004 and then Manager in the year 2010. He was suspended from service on 26.10.2012. Charge memo dated 10.01.2013 came be issued. The writ petitioner offered his explanation on 01.02.2013. Not satisfied with the same, the management ordered enquiry. The enquiry officer held that the charges stood proved. The enquiry report dated 05.06.2015 was served on the petitioner along with show-cause notice dated 06.06.2015. The petitioner offered his further representation on 13.08.2015. After considering the same, the order of dismissal was passed on 27.08.2015. Challenging the same, the petitioner filed W.P.(MD)No.18731 of 2015. The writ petition was dismissed on 17.10.2015 on the ground of availability of alternative remedy. The petitioner moved the board challenging the order of dismissal. The board passed the resolution on 19.07.2017 sustaining the dismissal order. It was duly communicated to the petitioner. Questioning the same, the



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petitioner filed a revision petition under Section 153 of Tamilnadu Cooperative Societies Act. The revision petition was dismissed by the impugned order dated 23.09.2019. Challenging the same, the present writ petition has been filed.

2.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned orders and grant relief as prayed for. The learned counsel for the petitioner also filed detailed notes of arguments. The learned counsel for the petitioner would submit that the charge memo contains four articles of charge. The first charge against the petitioner is that when he was serving as Manager, he transferred a sum of Rs.60,000/- and a sum of Rs.2,000/- on 27.09.2012 and 20.09.2012 respectively to his personal account and that he misused the password of the Accountant by name Muthumeenal. The second charge is that in respect of the charged pledged items, the petitioner had returned the same to the customer even though they have not been redeemed. The third charge is that in order to screen his act of misconduct, he had illegally changed the password. The fourth charge is



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a general one. The defence of the petitioner is that he is having two savings bank accounts. One is in Madurai District Central Cooperative Bank and other is in Indian Bank and that he had instructed the Section Assistant to withdraw a sum of Rs.60,000/- from his savings bank in the Cooperative Bank and transfer the same to his savings bank account in the Indian Bank. Instead of doing so, the Section Assistant had committed some mistake and when it was realized, it was duly set right. The stand of the petitioner is that the bank did not suffer any loss. Reliance is also placed on the testimony of the concerned Assistant. The learned counsel for the petitioner draws my attention to the report submitted under Section 81 of the Act which states that no criminal prosecution was recommended since the bank did not suffer any financial loss. As regards the second charge, the stand of the petitioner is that the statutory audit report conducted by the bank as well as the domestic audit report exonerate the petitioner and that the charges are absurd. Regarding the third charge, the petitioner contended that the passwords were changed by the concerned Assistant because of computer system malfunction and that the petitioner had no role.



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3.The second respondent has filed counter affidavit and the learned standing counsel for the bank took me through its contents. The learned standing counsel also filed written submissions and pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. I called upon the learned standing counsel for the bank to show what was the available amount in the account of the petitioner on 27.09.2012. The passbook entries have been made available and there is no entry showing withdrawal of Rs.60,000/ from the petitioner's savings bank account. On the other hand, there was only a sum of Rs.17,869/- in his bank account as on 27.09.2012. Merely because the bank did not suffer any loss, that would not mitigate the gravity of the act. It is relevant to bear in mind that the petitioner was the Branch Manager during the relevant time. In the written submission filed on behalf of the second respondent, it has been shown as to how there has been a manipulation of the personal ledger of the account holder. As rightly pointed out by the learned standing counsel, every transaction is through the Branch Manager. It is possible that mistakes can occur but



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where the beneficiary of the mistake is the Branch Manager himself then there is something that is more than meets the eye. On going through the detailed reasons that have been furnished in the enquiry report as well as in the orders passed by the disciplinary authority as well as the revisional authority, I am more than satisfied that no case for interference has been made out. In order to satisfy my conscience, I called upon the learned standing counsel to file detailed written notes summarizing the reasons that led to the findings of guilt. That itself runs to more than 23 pages.

5.It is for the petitioner to demonstrate as to how the findings are vitiated by perversity or arbitrariness. In criminal cases the standard of proof is beyond reasonable doubt and in civil cases the standard of proof is preponderance of probability. In disciplinary proceedings, the standard is “proof based on some evidence”. In this case, substantial evidence is available against the delinquent. It is not for the Writ Court to go into factual matters. The burden is entirely on the petitioner to demonstrate to the satisfaction of the Writ Court that the disciplinary authority had gone completely wrong or that there has been miscarriage of justice. The case was posted on as many as five occasions to enable the petitioner to



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6.The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 07.08.2023.

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To:-

The Registrar,
Cooperative Societies,
Kilpauk, Chennai.



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G.R.SWAMINATHAN, J.

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