



W.P.No.14536 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.14536 of 2012
and M.P.No.1 of 2012

S.Kalirathinam

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its,
Secretary to Government,
Co-operative, Food and Consumer Protection (CP1) Department,
Fort St.George,
Chennai – 9.

2.The Joint Registrar of
Co-operative Societies,
Trichirapalli Region,
Trichirapalli.

3.The Special Officer,
Trichirapalli District Central
Co-operative Bank Limited,
No.1, Fort Station Road,
Trichirapalli.

... Respondents

Writ Petition has been filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records connected in No.2300/05-06 A10, dated 16.05.2008 passed by the third respondent,



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revision petition Na.Ka.No.6957/09/Saba dated 30.11.2009 passed by the second respondent and G.O.(Ms)No.82, Co-operative, Food and Consumer Protection (CP1) Department dated 20.09.2011 passed by the first respondent and quash the same and direct the respondents to promote the petitioner as Manager with all consequential benefits.

For Petitioner : Mr.K.Arumugam

For Respondents 1 & 2 : Mr.S.Parasukumar,
Government Advocate

For Respondent 3 : Mr.D.Shanmugaraja

ORDER

The petitioner has filed this writ petition to call for the records connected in No.2300/05-06 A10, dated 16.05.2008 passed by the third respondent, revision petition Na.Ka.No.6957/09/Saba dated 30.11.2009 passed by the second respondent and G.O.(Ms)No.82, Co-operative, Food and Consumer Protection (CP1) Department dated 20.09.2011 passed by the first respondent and quash the same and direct the respondents to promote the petitioner as Manager with all consequential benefits.



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2. Learned counsel for the petitioner would further submit that the petitioner was working as Assistant Manager and ordered to supervise the Koppampatti Primary Agriculture Co-operative Bank during the period from 1997 to 2000, the said co-operative bank employee has committed some irregularities and also misappropriated the said bank money to the tune of Rs.4,14,985/-. Based on the said misappropriation, an enquiry was conducted under Section 81 of Co-operative societies act by the enquiry officer and a report was also submitted to the disciplinary authority for further course of action. Based on the said enquiry report, the said society employee was issued a charges and also requested to attend the departmental enquiry. While so, the petitioner was also issued with a charge memo by the Special Officer vide charge memo No.2300/05-06 A10 dated 07.06.2007 and two charges were also framed against him that he has failed to supervise the function of the said society properly and thereby loss caused to the society.

3. Learned counsel for the petitioner would further submit that after receiving the said charge memo, the petitioner made a representation to the



Special Officer, Trichirappalli District Central Co-operative Bank Limited on 20.02.2010 and requested to furnish relevant document at an early date, so as to submit his explanation effectively. Thereafter, some of the documents were furnished and rest of the documents were not furnished to him. Even then, he has submitted his explanation to the said charge memo on 29.06.2007. Thereafter, an enquiry officer was appointed to conduct the enquiry in regard to the said charges and he has also conducted the enquiry and submitted his report to the punishing authority on 29.10.2007. Subsequently, on 11.12.2007, a show cause notice was issued along with enquiry report and instructed the petitioner to submit his explanation with regard to enquiry report. On 21.04.2008, the petitioner has submitted his detailed further explanation to the third respondent in regard to the enquiry report and stated that the enquiry officer has not conducted the enquiry properly. After receiving the petitioner's explanation, the third respondent has imposed a punishment of censure against the petitioner in No.2300/05-06/A10, dated 16.05.2008. Against the said punishment order, the petitioner has preferred a revision petition under section 153 of Co-operative Societies Act before the second respondent. After receiving his revision petition, the second



respondent has conducted an enquiry and personal hearing was also given to the petitioner and the third respondent. A counter affidavit was also filed by the third respondent before the second respondent in the said revision petition. Thereafter, without considering the revision petition properly, the second respondent has rejected the same on 30.11.2009 as devoid of merits.

4. Learned counsel for the petitioner would further submit that in the aforesaid revision petition, the petitioner has raised several legal points and also raised infirmities in conducting departmental enquiry, but the revision authority/second respondent has not even meeting out the said points and also not even given any reason to reject his grounds, simply accepted the counter of the third respondent and confirmed the said punishment order dated 16.05.2008. Hence, the petitioner has filed another revision petition before the Government on 16.03.2010. Again, the third respondent has filed their counter affidavit to the said revision petition. Thereafter, the Government has passed final order on the said revision petition in G.O.Ms.No.82, Co-operative, Food and Consumer Protection Department,



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dated 20.09.2011 and rejected the petitioner's revision petition without considering his grounds properly. Aggrieved over the same, the petitioner has come forward with the present writ petition.

5. Learned counsel counsel for the petitioner would further submit that the Enquiry Officer has not followed the enquiry procedure laid down in the rules, while conducting the enquiry and the basic principle is that first the enquiry officer should furnish the copies of the statement of witnesses to the delinquent officer, so as to defend himself and also for effective cross examination. But, in this case, the copies of the statement of witnesses was not furnished to the petitioner till the finalisation of enquiry proceedings. Therefore, it is clear that the Enquiry Officer has conducted the enquiry without following the principle of natural justice. Hence, the entire proceeding is liable to be set aside.

6. Learned counsel appearing for the third respondent has filed a counter affidavit dated 08.01.2024 and submitted that the petitioner was working as Assistant Manager in the 3rd respondent Bank and he attained the



age of superannuation on 30.06.2008. While he was working as Circle Supervisor in Uppliyapuram Circle, there was large scale irregularities and misappropriation in Koppampatti Primary Agriculture Cooperative Bank Ltd., which falls under Uppiliyapuram Circle. The Secretary of the above Society has committed forgery, falsification of accounts and misappropriation in disbursing loan to various members of the Society. The Secretary created fabricated documents as if loan was sanctioned to the members of the Society and he forged the signature of the members in the disbursement register to make it appear as if loan was disbursed to the members, but it was not actually disbursed. In some cases, he disbursed part of loan amount and created documents as if entire loan was disbursed to the members. Thereby the Secretary has committed forgery, creating fabricated documents, falsification of accounts and misappropriation of the fund.

7. Learned counsel appearing for the third respondent would further submit that the petitioner, being circle Supervisor of the 3rd respondent Bank had duty and responsibility to inspect the society, verify the ledger and records to ensure that the funds provided to the society is being utilized



properly and to ensure the recovery of loan amount. Only on the basis of his recommendation, the loan would be sanctioned and disbursed to the members. But, he has committed willful negligence and dereliction of duty in supervising the affairs of the Society in respect of the above loan and caused huge financial loss to the 3rd respondent Bank to the tune of Rs. 4,14,985/-. Therefore, on the above charge, he was issued Charge Memorandum dated 07.06.2007.

8. Learned counsel appearing for the third respondent would further submit that the enquiry officer conducted the domestic enquiry and he had enquired into the charge leveled against the delinquent employee. The petitioner had fully participated in the domestic enquiry conducted on 21.09.2007. 08.10.2007 and 11.10.2007. During the enquiry, the Management witness has produced a loan ledger, accounts register and loan disbursement register for the period of 18.11.1999 to 23.12.1999 and 24.12.1999 to 17.08.2000 and 27.11.1997 to 23.02.1998. After giving opportunity for cross-examination, the management witness was closed. The petitioner had given evidence on his side besides producing as many as 7



documents. The Petitioner had closed his side stating that no further witness is available. The enquiry officer had elaborately considered and dealt with the statement of imputations of misconduct, irregularities committed by the petitioner and analyzed the evidence adduced on behalf of the Management and the evidence adduced by the delinquent. After full-fledged enquiry, the Enquiry Officer had submitted his report dated 29.10.2007 concluding that all the charges framed against the petitioner were proved.

9. Learned counsel appearing for the third respondent would further submit that the petitioner made allegation as if he has sought to furnish some documents during the domestic enquiry and the same was not furnished to him. The above allegation is absolutely false and the same was made only for sack of argument. On very reading of the enquiry report, it would be quite clear that the Management witness has produced all relevant register and ledger and the petitioner has also produced as many as 7 documents. Further, there is absolutely no material to show that the petitioner had sought any document during the enquiry proceedings. The petitioner has not specifically pleaded as to what are all the documents required and what is the relevance



of the documents. The petitioner has made vague averment without even mentioning the details of documents required to be furnished. Therefore the above ground is neither acceptable nor sustainable.

10. Learned counsel appearing for the third respondent would further submit that as far as the principle of natural justice is concerned, it is well settled law that there need not be domestic enquiry for imposing minor penalty. For imposing minor penalty, it is enough if charge memo is issued and explanation is received on the charge memo. But, in this case, after receiving explanation for the charge memorandum, domestic enquiry was conducted in order to the wide sufficient opportunity to the petitioner. Thereafter, on the basis of the enquiry report which incriminates the petitioner, second show cause notice was issued to the petitioner. The petitioner has also submitted his explanation to the second show cause notice. Thereafter only, the petitioner was imposed punishment of censure. Hence, there is no question of any violation of principle of natural justice. In fact, enough and adequate opportunities were given and procedure was followed more than what is required under law for imposing minor punishment that too



'censure'.

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11. Learned counsel appearing for the third respondent would further submit that it is not correct to state that the very same special officer has conducted enquiry under section 81 of the Tamil Nadu Cooperative Societies Act. Even assuming the Special Officer of the concerned Society has conducted enquiry under section 81 of the Act, there is no allegation of misappropriation or forgery as against the Special Officer. It is admitted fact (the petitioner has also not disputed) that the Secretary of the Society has committed various irregularities and misappropriation. It is not the case of the petitioner that irregularities were not at all committed. Once it is admitted that the Secretary has committed all those wrongdoing and then it is obvious that the petitioner has failed to supervise the society. Irrespective of enquiry under section 81 of the Act, the charge against the petitioner has been proved independently during the domestic enquiry. Therefore, the disciplinary authority need not depend on the enquiry report under section 81 of TNCS Act.



12. Heard the learned counsel on either side and perused the materials available on record.

13. The petitioner was working as a Circle Supervisor in Uppiliyapuram Circle and there were large scale irregularities and misappropriation in Koppmapatti Primary Agriculture Co-operative Bank Limited, which falls under Uppiliyapuram Circle. The Secretary of the above society has committed forgery, falsification of accounts and misappropriation in disbursing loan to various members of the society. The petitioner, being Circle Supervisor of the 3rd respondent Bank had duty and responsibility to inspect the society, verify the ledger and records to ensure that the funds provided to the society is being utilized properly and to ensure the recovery of loan amount. Only on the basis of his recommendation, the loan would be sanctioned and disbursed to the members. In this case, as a supervising authority, the petitioner was negligent in supervising the affairs of the society in respect of the above loan, which caused huge financial loss to the third respondent bank to the tune of Rs.4,14,985/-. Hence, the petitioner was issued with a charge memo dated 07.06.2007.



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14. Thereafter, an enquiry was conducted, witnesses were examined, documents were produced and the Enquiry Officer has submitted his report dated 29.10.2007 concluding that all the charges against the petitioner were proved. Thereafter, an explanation was offered by the petitioner dated 29.10.2007 and on the basis of the findings given by the Enquiry Officer, the disciplinary authority had issued second show cause notice dated 11.12.2007 to the petitioner show causing him as to why penalty should not be imposed against him and a copy of the enquiry report dated 29.10.2007 was also enclosed along with second show cause notice.

15. The petitioner has submitted his explanation dated 21.04.2008 to the second show cause notice. Since the explanation given by the petitioner was not satisfactory, the disciplinary authority imposed a minor punishment of censure on 16.05.2008. The petitioner has challenged the said order by four grounds viz.,

(i) The management has not furnished documents



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- (ii) Violation of natural justice
- (iii) Impugned order was passed with malafide intention
- (iv) Enquiry under section 81 of the Act is illegal

16. In regard to the first ground, it is stated in the counter affidavit that the management witness has produced all the relevant register and ledger and the petitioner has also produced as many as 7 documents and there is absolutely no material to show that the petitioner had sought any document during the enquiry proceedings.

17. In regard to the second ground, the principle of natural justice is concerned, the punishment imposed on the petitioner is minor penalty and in this case after receiving explanation for the charge memo, domestic enquiry was conducted in order to provide sufficient opportunity to the petitioner. Thereafter only, the petitioner was imposed with a punishment of censure. Hence, there is no violation of principle of natural justice.



18. In regard to the third ground i.e., malafide intention, the petitioner contention is that the charge memo and the punishment was imposed with malafide intention to deny the promotional avenue to the petitioner. But, he was not specifically pleaded and established the malafide intention.

19. In regard to the fourth ground, it is not correct to state that the very same special officer has conducted enquiry under section 81 of the Tamil Nadu Co-operative Societies Act. It is an admitted fact that the secretary of the society has committed various irregularities and misappropriation. Once, it is admitted that the secretary has committed all those wrongdoing and then, it is obvious that the petitioner has failed to supervise the society.

20. In view of the above factual matrix of the case, this Court is of the considered view that the punishment of censure imposed on the petitioner does not warrant any interference by this Court and the same is hereby confirmed.



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21. In the result, this writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is also closed.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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