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W.P.No.15335 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN

W.P.No.15335 of 2011

and

M.P.No.1 of 2011

N.Palanisamy

...Petitioner

Vs.

1. The Joint Registrar of Co-op. Societies,
Cuddalore Region,
Cuddalore,
Cuddalore District.

2. The Special Officer,
E.2600, T.Neduncheri Primary Agricultural
Co-operative Credit Society,
Sivakkam Village,
Perunkavalaur Post,
Kattumannarkudi Taluk,
Cuddalore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.1174/2011 Thu.Va.Tha.1, dated 16.06.2011, quash the same and consequently, direct the respondents to reinstate the petitioner into service with all back wages and attendant benefits.



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For Petitioner : Mr.C.Prakasam

For Respondents : Mr.S.Ravi Kumar,
Special Government Pleader
for R1

Mr.S.Palanisamy for R2

ORDER

This Writ Petition is filed challenging the order dated 16.06.2011, whereby the revision filed by the petitioner challenging the order of termination came to be rejected.

2.The petitioner, who was working as Assistant in the 2nd respondent Society, was issued with a Charge Memo dated 09.01.2008, framing the charges that he had allowed his two sons, namely, Cheeranjevee Raja and Sanjeevee Raja, to pledge jewels in the Society and availed a sum of Rs.84,020/- on the ground that they are Agriculturists. In support of their claim, they have submitted Chitta and Adangal. The petitioner had submitted his explanation on 04.02.2008 and not satisfied with the reply, an Enquiry Officer was appointed on 28.01.2008. After concluding enquiry, the Enquiry Officer has submitted his Report dated 18.11.2009 holding that the charges are proved. The Second Show Cause Notice was issued to the petitioner on 03.03.2010 enclosing the



Enquiry Report for which the petitioner submitted his explanation on 20.03.2010 and after affording him opportunity of personal hearing, by order dated 22.01.2011, the 2nd respondent dismissed the petitioner from service. Challenging the order of termination, the petitioner preferred statutory revision under Section 153 of the Tamil Nadu Co-operative Societies Act before the 1st respondent which came to be rejected. Challenging the same, the petitioner has preferred the above petition.

3.Mr.C.Prakasam, learned counsel for the petitioner vehemently contended that when the loan application was submitted by the petitioner's sons, the loan has been sanctioned only after proper scrutiny of the loan application. Now, the petitioner cannot be faulted for any irregularity of sanctioning the loan. It is his further contention that merely because the two persons who availed the jewel loan are the sons of the petitioner, the liability cannot be fastened on the petitioner, when he has no role and if at all any lapses have been committed by his sons, the petitioner cannot be penalized for the same and sought for interference of this Court.

4.Mr.S.Ravi Kumar, learned Special Government Pleader for the 1st respondent contended that the petitioner knowing well that the sons are not the owners of the land and fabricating the documents, allowed his sons to pledge



the jewels and availed the loan and further, when the waiver of the loan scheme was introduced, the petitioner who was the employee having allowed the loan to be waived of, thereby caused loss to the Society. Therefore, pursuant to the disciplinary proceedings conducted, based on the proved charges, the order of termination came to be passed which has been confirmed in the revision and is perfectly justified and he sought for dismissal of the Writ Petition.

5.Mr.S.Palanisamy, learned counsel for the Society contended that without the assistance of the petitioner, the two unmarried sons, who are not having any land, could not have fabricated the documents by creating Chitta and Adangal, which are primary documents for sanctioning the loan. When the petitioner has by all means involved in the transaction, the charge against the petitioner was proved which resulted in termination of the petitioner from service and he prayed for the dismissal of the Writ Petition.

6.Heard the learned counsel appearing on both sides and perused the material on record.

7. Admittedly, the petitioner is working as Assistant in the 2nd respondent



Society. His two unmarried sons, namely, Cheeranjeeva Raja and Sanjeeva Raja, pledged jewels and availed the loan of Rs.84,020/-. As per the jewel loan scheme, the persons can pledge jewels and avail the loan only if they are Agriculturists possessing agricultural lands. For this purpose, the sons of the petitioner had produced Chitta and Adangal to evidence that they are Agriculturists and they are entitled for availing the loan. Later, the loan waivers scheme was introduced by the Government and based on which the jewel loans taken by the petitioner's sons have been accepted and waived off. Later, the 2nd respondent Society came to know that the petitioner's sons actually do not have any agricultural land and in fact, they have submitted the records by producing Chitta and Adangal which they later claimed to be the lessees and were able to avail the jewel loan, by pledging their jewels, for which otherwise they are not entitled to.

8. In such circumstances, the Society has issued a charge memo to the petitioner on 09.01.2008 and for the above charges, the petitioner submitted his reply on 04.02.2008. The Enquiry Officer was appointed and in the enquiry, the petitioner had participated and two witnesses were examined on the side of the Management/Society, documents M.1 to M.18 were marked and on the side of the petitioner, documents P.1 to P.4 were marked.



9. After concluding the enquiry, the Enquiry Officer has submitted his report on 18.11.2009 holding that the charges are proved. The 2nd respondent/Society concurring with the Enquiry Report, had issued a Show Cause Notice to the petitioner and after receiving his explanation on 20.03.2010 and also after affording personal hearing, by order dated 22.01.2011 dismissed the petitioner from service.

10. From the material available, it could be seen that the two documents M.14 and M.15 are Chitta and Adangal produced by the petitioner's sons with the applications to avail the jewel loans as if they are Agriculturists and entitled to avail the loan. During the enquiry, the Village Administrative Officer was examined as MW2 who had clearly deposed that he did not write M.14 and M.15 - Chitta and Adangal and thereby it has been clearly proved that these two documents are fabricated and used by the petitioner's sons to avail the jewel loan.

11. Further, there are statutory Circulars available and already instructions have been issued to the society that they have to accept only the computerized documents of Chitta and Adangal and whereas the documents M.14 and M.15 had been accepted for sanctioning the loan. Thereby, the role of



the petitioner in allowing the sons to create records M.14 and M15 knowing well that they do not own any agricultural land and further, the deviation in instructions from accepting the handwritten revenue documents for the loan availed by two persons stands proved.

12.Further, when the loan waiver scheme was introduced by the Government, the petitioner's sons' jewel loan had also been included for consideration under the loan waiver scheme and the petitioner was also a Member of the Scrutiny Committee who had scrutinized the loan application and found that they are eligible for the loan waiver scheme. The petitioner is aware of the loan availed by his sons by producing the false revenue documents, on the other hand, he had also along with the Scrutiny Committee scrutinized the documents by approving the eligibility of the jewel loan availed by the sons under the loan waiver scheme. Ultimately, the loans were availed by the two persons who are the sons of the petitioner by submitting fabricated documents M.14 and M.15, which was established by the evidence of MW2-Village Administrative Officer and thereafter, the jewel loan has been waived off and the petitioner had caused loss to the society. In view of the proven charges, the Disciplinary Authority/2nd respondent Society had imposed the punishment of dismissal from service which was also confirmed by the order of the 1st respondent in the statutory revision preferred by him.



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13.This Court under Article 226 of the Constitution of India, in the judicial review cannot reappraise the evidence but only consider the manner in which the decision has been arrived at. In the instant case, from the documents available on record, the charge is amply established. The two sons of the petitioner who are not eligible to avail jewel loan, by fabricating the documents M.14 and M.15, had availed jewel loan with the participation and knowledge of the petitioner and further, the loan was also waived off under the loan waiver scheme. When the charges have been proved based on the Enquiry Report, the Disciplinary Authority has imposed the order of termination from service.

14.In these circumstances, this Court is not able to find any error or illegality in the procedure and the enquiry has been conducted in a proper and fair manner. The petitioner who is the employee of the Society had allowed his sons to avail the loan, who are not legally entitled to, by creating fabricated documents and the punishment imposed as against the petitioner is commensurate to the charges levelled against him. In view of the above deliberations, this Court does not find any merit in this Writ Petition.

Accordingly, this Writ Petition is dismissed. If there are any payments which are legally entitled to, it is open to the petitioner to make necessary



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representation before the 2nd respondent, which shall be considered in accordance with Law. Consequently, connected Miscellaneous Petition is closed. No costs.

13.11.2024

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
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