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W.P.No.25321 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.25321 of 2010

and

M.P.No.1 of 2010

T.Sivaprakasam

...Petitioner

Vs

1.The Joint Registrar of Co-operative Societies,
Dharmapuri Region,
Dharmapuri.

2.The Special Officer,
S.972, Irumathur Primary Agricultural
Co-operative Bank Fair Price Shop,
Irumathur,
Dharmapuri District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.4972/2009 Sa.Pa dated 19.10.2010 passed by the 1st respondent and quash the same and consequently direct the 2nd respondent to reinstate the petitioner as salesman in the 2nd respondent fair price shop.

For Petitioner : Mr.A.S.Baalaji

For Respondents : Mr.A.M.Ayya Durai (for R1)
Mr.A.Arumugham (for R2)



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ORDER

The Writ Petition is filed calling for the records in Na.Ka.4972/2009 Sa.Pa dated 19.10.2010 passed by the 1st respondent and quash the same and consequently direct the 2nd respondent to reinstate the petitioner as salesman in the 2nd respondent fair price shop.

2.It is the submission of the learned counsel for the petitioner that petitioner was working in 2nd respondent fair price shop as Salesman for the past 20 years with unblemished service record. On 15.07.2008 at about 12.05 p.m., a inspection was conducted by Sub-Registrar, PDS, Morappur at the 2nd respondent shop. It was found that during the course of inspection the Salesman had sold essential commodities in black market by falsely creating bills as if the commodities were sold to 81 card holders twice in the same month and caused wrongful loss to the tune of Rs.19,910.40/- to the 2nd respondent fair price shop. On the basis of this false allegation, petitioner was suspended from service 16.07.2008. The 2nd respondent informed the petitioner that if he pays the amount of Rs.19,910.40/-, he will reinstate him. Taking moral



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responsibility, with great difficulty, petitioner paid a sum of Rs.19,910.40/-. Instead of reinstating the petitioner, to his shock and surprise, a charge memo dated 20.10.2008 was issued to the 2nd respondent, alleging the irregularity. He further submitted his explanation dated 29.10.2008 denying the charges. Retired Registrar of Co-operative Societies was appointed as Enquiry Officer. Enquiry Officer asked petitioner to sign in blank sheets under coercion. Left with no option, petitioner signed in the blank sheets. On the same date, the Enquiry Officer prepared the enquiry report. On perusing the enquiry report dated 20.11.2008, petitioner was shocked to note that signatures on blank sheets have been used by the Enquiry Officer. Petitioner submitted his explanation dated 20.02.2009 and prayed for pardon. Without considering, the 2nd respondent dismissed the petitioner from service on 31.03.2009. Petitioner filed Revision before the 1st respondent under Section 153 of the Co-operative Societies Act, 1983, but that ended in dismissal on 19.10.2010.

2.1.It is the further submission of the learned counsel for the petitioner that, there are no details as to what is the quantity of essential



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commodities sold and who are all the 81 persons to whom commodities alleged to have been sold. Without these basic details, charge memo had been given. He paid the amount of Rs.19,910.40/-, only to satisfy his moral conscience and not admitted the charges. In the said circumstances, he prays to set aside the order in Na.Ka.4972/2009 Sa.Pa dated 19.10.2010 passed by the 1st respondent.

3.In response, learned counsel for the respondents submitted that it is not the first time where petitioner had indulged in malpractice. He was charged with suspension for five times for the commission of grave irregularities during his tenure of his service in the 2nd respondent shop. Therefore, petitioner's claim that he had unblemished service is not correct. A criminal case in Crime No.290 of 2010 was registered by Civil Supplies Criminal Investigation Wing, Krishnagiri for the offences under Sections 6(3) of TNSC (RDCS) read with 7(i) a (ii) of the Essential Commodities Act, 1982 and under Sections 468, 477(A) of IPC. First Information report is still pending. During the course of enquiry, petitioner admitted his guilty and paid a sum of Rs.19,910.40/-. Taking into account the misconduct committed by petitioner and that he is a



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habitual offender, he was rightly dismissed from service. Therefore, he prays for the dismissal of this Writ Petition.

4.Considered the rival submissions and perused the records.

5.As per the charge memo, the allegation against the petitioner is that he had fabricated false receipts and on that basis, he sold essential commodities meant to be supplied to the general public, who holds family card, in black market and illegally gained Rs.19,910.40/- It is true that charge memo did not mention about the 81 family card holders to whom, it is alleged that the essential commodities had been sold twice. But the enquiry report shows that petitioner had paid a sum of Rs.19,910.40/-. Petitioner participated in the enquiry. The Enquiry Officer, on the basis of the evidence produced, found the charge against the petitioner was proved. On the other hand, petitioner's challenge is to the enquiry report, alleging that Enquiry Officer obtained his signature in the blank sheets by exercising coercion and created the enquiry report. This allegation is not proved by the petitioner by producing any evidence. Therefore, there is no way that the enquiry report can be found



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fault with. That apart, it is seen from the counter affidavit of the respondents that petitioner was suspended five times for the commission of grave irregularities. It appears that petitioner is a habitual offender, involved in committing grave irregularities and misconduct.

5.1.In the said circumstances, this Court finds no reason to interfere with the order of the 1st respondent and the order of the 1st respondent in Na.Ka.4972/2009 Sa.Pa dated 19.10.2010 is confirmed.

6.Accordingly, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. Parties shall bear their own costs.

12.02.2024

Index:Yes/No

Speaking order/Non-speaking order
gd



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To

1.The Joint Registrar of Co-operative Societies,
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Dharmapuri.

2.The Special Officer,
S.972, Irumathur Primary Agricultural
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G.CHANDRASEKHARAN, J.

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