



W.P.No.20141 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.20141 of 2021
and W.M.P.No.21414 of 2021

P.Umamaheshwari

... Petitioner

/vs/

1. The Joint Registrar of Cooperative Societies,
Coimbatore Region,
Arokiyasamy Street,
K.K.Pudur,
Coimbatore – 641 038.

2. The Deputy Registrar / The Managing Director,
The Coimbatore City Co-operative Bank Limited,
No.119, Dr.Nanjappa Road,
Coimbatore- 641 018.

3. K.Senthil Kumar

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records of proceedings dated 27.08.2021 on the file of the second respondent and quash the same as illegal, incompetent and ultravires and direct the second respondent to pay all the retirement benefits to the petitioner from the date of superannuation along with the interest.

For Petitioner ... Mr.A.Thiyagarajan



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For Respondents ... Mr.M.Rajendran
Additional Govt. Pleader for R1

Mr.L.P.Shanmugasundaram for R2
No appearance for R3

ORDER

The petitioner has filed this writ petition challenging the order of the second respondent dated 27.08.2021 and to direct the second respondent to pay all the retirement benefits to the petitioner from the date of superannuation along with the interest.

2. The petitioner was the Assistant General Manager of the second respondent bank from the year 2016 to 2019 and he was allowed to retire on 31.07.2019 without any conditions attached. During his tenure, there was some bank fraud committed by some third parties. In this regard, criminal proceedings have also been initiated and a case has been registered by Cyber Crime Cell, Coimbatore on 07.01.2019 on the complaint given by the petitioner in Cr.No.1/2019 under Section 420 IPC and 66(C), 66(D) of IT Act, 2000 and after the completion of the investigation, charge sheet has been laid against the accused.

3. It is to be noted that the petitioner is not an accused in the criminal



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proceedings. However, disciplinary action has been initiated against the petitioner for certain allegations of negligence. After giving due opportunity to the petitioner, an enquiry has been initiated and at the end of the enquiry, the Enquiry Officer has filed a report that the charges against the petitioner were not proved. Since no final order has been passed by the disciplinary authority in pursuant to the order of the enquiry report, the petitioner has filed a Writ Petition in W.P.No.12735 of 2021 and in which the following order has been passed:

“ 3. Considering the limited scope of prayer that is now sought before this Court by the learned counsel for the petitioner, without expressing any opinion on the merits of the petitioner's submissions or the case pleaded before this Court, the second respondent is directed to pass final order pursuant to the enquiry that was concluded on 21.08.2020 in relation to the proceedings in Na.Ka.No.002/2019/Mey.E dated 29.07.2019 and dispose of the same on merits and in accordance with law, after giving sufficient opportunity to the petitioner of being heard, within a period of eight weeks from the date of receipt of a copy of this order.”

4. Mr.A.Thiyagarajan, the learned counsel for the petitioner,



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submitted that unmindful of the above direction, the respondents have once again appointed an Enquiry Officer as per the impugned order dated 27.08.2021; when the enquiry has already been appointed there is no necessity to appoint another Enquiry Officer and the respondents should have passed a consequential order in terms of the Enquiry Report and also in accordance with the order of the Court in W.P.No.12735/2021.

4.1. It is submitted that the Branch Manager of the Coimbatore City Co-operative Bank Limited by name T.Chandrasekaran, against whom also the enquiry proceedings have been initiated for the same transactions, was reinstated into service and with continuity of service; however, the petitioner has not been reinstated so far and the enquiry proceedings which was ended in the year 2019 is still kept pending without any ultimatum; hence the impugned order dated 27.08.2021 is ultravires and hence it is liable to be set aside and the respondents should be directed to settle the terminal benefits of the petitioner from the date of superannuation along with other service benefits.

5. Mr.L.P.Shanmugasundaram, the learned counsel for the second respondent, submitted that just in order to give an opportunity to the



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petitioner, the second enquiry officer has been appointed and notice has been given to the petitioner on 27.08.2021; in the said notice it has been stated that the disciplinary authority is not satisfied with the enquiry report and hence the petitioner is given with an opportunity; despite the petitioner has given a reply as early as on 04.09.2021, the same has not been considered so far and the matter is kept pending without any reason.

6. When similarly placed person T.Chandrasekaran, Branch Manager, who also faced disciplinary proceedings on the same set of facts and the enquiry report as against him was accepted and he was reinstated, it appears to be unfair on the part of the respondents to defer with the findings of the Enquiry Officer as against the petitioner though the role played by the Manager and the Assistant General Manager of the said Bank will be different. The second respondent thought it fit to issue a second notice as he did not choose to accept the report of the Enquiry Officer.

7. The learned counsel for the petitioner submitted that in the order of the writ petition in W.P.No.12735/2021 it has been specifically stated that further orders should be passed and hence there is no scope for



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appointment for a second Enquiry Officer.

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8. It is to be noted that the order of this Court does not say that the Enquiry Report should be accepted by the disciplinary authority without any difference. But it would have been alright if the disciplinary authority had chosen to issue notice for the limited purpose of hearing the petitioner as to the difference of opinion formed by the disciplinary authority. All that the order says is after giving an opportunity to the petitioner to be heard, order should have been passed by the second respondent. Hence, the petitioner cannot construe the same as a direction to accept the report of the Enquiry Officer.

9. For issuing the second show cause notice, there is no necessity to appoint any enquiry officer. Since the petitioner has already submitted an explanation to the second show cause notice, it is obligatory on the part of the second respondent to pass orders.

10. Hence, the impugned order passed by the second respondent dated 27.08.2021 on the file of the second respondent is hereby quashed in



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so far as it relates to the appointment of an another Enquiry Officer. The second respondent shall consider the representation of the petitioner dated 04.09.2021, in the light of the orders passed in respect of the Branch Manger, T.Chandrasekaran, who also faced the disciplinary proceedings along with the petitioner on same set of facts and in whose favour the enquiry and pass orders afresh, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above direction, this Writ Petition is disposed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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To:



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