



W.P.No.9469 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.9469 of 2017
and MP.No.10426 of 2017

J. George

... Petitioner

Vs.

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

2. The Managing Director,
D.R.(L) C-16, Kotagiri Co-operative Primary
Agricultural and Rural Development Bank Ltd.,
Kotagiri, The Nilgiris.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorari to call for the entire records relating to Revision Petition No.01 of 2015 (Na.Ka.16899/2015 A3), dated 04.10.2016 passed by the 1st respondent and quash the same.

For Petitioner : Mr.A.Bobblic

For Respondent : Mr.M.Murali
Government Advocate for R1



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Mrs.T.Girija for R2

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ORDER

This writ petition is filed for issuance of a Writ of Certiorari to call for the entire records relating to Revision Petition No.01 of 2015 (Na.Ka.16899/2015 A3), dated 04.10.2016 passed by the 1st respondent and quash the same.

2. The case of the petitioner is that he had joined service in the 2nd respondent Bank as Peon on 14.12.1992 and thereafter promoted as Secretary of the 2nd respondent Bank from 01.06.2011. He was serving as a Secretary till 01.04.2014, and suspended on 01.04.2014, on the allegation that he had misappropriated the funds of the 2nd respondent Bank to the tune of Rs.31,50,000/-.

3. The petitioner was issued a charge memo and the petitioner submitted his explanation on 15.04.2014. Domestic Enquiry was conducted and the Enquiry Officer in his report dated 30.09.2014 recommended to “admonish the charges”. Being not satisfied with the 1st enquiry, the 2nd respondent ordered for 2nd enquiry and the 2nd enquiry report was filed on 21.11.2014, holding that all



the charges levelled against the petitioner were proved. Aggrieved by the same a Revision Petition was preferred in Revision Petition No.01/2015 (Na.Ka.1689/2015 A3) to the 1st respondent herein under Section 153 of the Tamil Nadu Co-operative Societies Act. Aggrieved by the impugned order passed in the Revision Petition No.01/2015/Na.Ka.1689/2015A3 dated 04.10.2016 the petitioner has filed the above writ petition.

4. The 1st respondent filed a detailed counter which is replicated by the 2nd respondent. The 1st respondent submitted that the petitioner was a Secretary and Chief paid officer of the 2nd respondent Bank entrusted with the cash and other assets of the said bank. The petitioner during his tenure 2013-2014 misappropriated for his personal benefit a sum of Rs.31,50,000/- which was in his custody and committed breach of trust. Domestic enquiry was conducted and report was furnished to the petitioner on 21.11.2014, seeking his explanation on the proposed punishment of dismissal. The petitioner on receiving the same, submitted his explanation dated 02.12.2014. Since the charges against the petitioner were accepted by him and proved beyond doubt on the basis of the records on file, the petitioner was dismissed from service by the 2nd respondent. Aggrieved by the said order of dismissal, the petitioner filed



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revision petition under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 before the revisional authority viz, the Joint Registrar of Cooperative Societies, the 1st respondent herein. The Revisional Authority upon perusal of the revision petition confirmed the dismissal order passed by the 2nd respondent finding it absolutely commensurate with the gravity of the misconduct committed by the petitioner. As the petitioner embezzled a huge sum of Rs.31,50,000/- of the Bank and committed criminal breach of trust towards the Bank, criminal proceedings were initiated against the petitioner in Crime No.1/2015. The petitioner was convicted and let off under probation of Offenders Act. The respondent further submitted that in the execution of the surcharge orders passed against the petitioner under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 dated 09.04.2015 for Rs.7.23 lakhs, the petitioner's property was brought to public auction on 25.09.2015, and the same was challenged in W.P.No.30216 of 2015. The said writ petition was disposed on 25.09.2015. Accordingly, the Deputy Registrar of Cooperative Societies, Udthagamandalam conducted enquiry and after verifying the payments made by the petitioner passed an order on 29.03.2016, directing the petitioner to repay a sum of Rs.6,51,377/- with accrued interest. The petitioner undertook to repay the same within a month, but failed to comply with the order. According to the



respondent there was absolutely no illegality or arbitrariness in the impugned proceedings as the order of dismissal was passed against the petitioner after taking into consideration the entire facts and circumstances of the case and also the loss of confidence of the 2nd respondent in the service of the petitioner. The respondent prayed for the dismissal of the writ petition as meritless.

5. The 2nd respondent replicated the counter of the first respondent.

6. The only point submitted by the learned counsel for the petitioner was that there was no jurisdiction to hold second enquiry that too in the absence of any proper reason to reject the first enquiry report by the disciplinary authority. On the same set of charges, the 2nd enquiry was initiated and therefore the impugned order dated 04.10.2016, passed by the 1st respondent deserved to be set aside.

7. The learned Government Advocate appearing for the 1st respondent submitted that the 1st enquiry report was found to be incomplete and as it did not serve the purpose the 2nd enquiry was ordered by proceedings dated 24.10.2014. The 2nd enquiry officer's report along with show cause notice was



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issued to the petitioner on 21.11.2014 calling for his explanation to show cause as to why he should not be removed from service. The petitioner submitted his explanation on 02.12.2014, wherein he clearly stated that the misappropriated amount of Rs.31,54,928/- was already remitted by him and therefore lenient view should be taken. Therefore, the learned Standing Counsel submitted that the petitioner having admitted the misappropriation of funds, the 2nd enquiry officer had rightly found that the charges were proved. Even in the revision petition filed under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 the petitioner did not raise the issue of lack of jurisdiction for holding the second enquiry.

8. Heard both sides and perused the materials available on record.

9. As rightly pointed out by the learned Standing Counsel for the 1st respondent, the petitioner did not agitate the issue of validity of the second enquiry either in his reply to the show cause notice dated 21.11.2014, or in his revision petition. The petitioner on the other hand admitted his guilt and sought for pardon on the ground that he had remitted the entire misappropriated amount of Rs.31,50,000/-. In view of the above facts the 2nd respondent cannot



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be faulted for conducting the 2nd enquiry. As rightly stated by the 1st respondent in its counter, the petitioner committed breach of trust by misappropriating the money entrusted to him by the bank. As the petitioner was entrusted with public money he ought to have conducted himself with utmost dignity and integrity. Contrarily, the petitioner misappropriated a huge sum of Rs.31,50,000/- from the Bank and committed criminal breach of trust and so the respondents lost confidence in the petitioner. I therefore find no illegality or infirmity in the order passed by the 1st respondent dated 04.10.2016.

10. In view of the factual matrix of the case, this Court is of the considered view that the impugned order in Na.Ka.16899/2015 A3 dated 04.10.2016 passed by the 1st respondent does not require any interference and accordingly, it is confirmed.

11. In the result this writ petition stands dismissed. No costs. Consequently connected miscellaneous petition are also closed.

03.09.2024

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Index : Yes /No

Speaking Order : Yes/No



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To

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N. MALA, J.

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