



WEB COPY



W.P.No.30110 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30110 of 2024

and

W.M.P.Nos.32813 & 32814 of 2024

M.Subramani,
(Former Secretary-Dismissal from service),
Rajapadmapuram Primary Agriculture
Cooperative Bank,
Ramakrishnapuram, Mampakkam Post,
Tiruttani Post, Tiruvallur District.

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Society,
Tiruvallur region,
Tiruvallur.

2.The Deputy Registrar of Cooperative Society,
Tiruttani Circle,
Tiruttani.

3.The Sub-Registrar of Cooperative Society,
(Excision and liquidation),
Kancheepuram Central Cooperative Society,
Kancheepuram – 631 501.
(on behalf of Rajapadmapuram Primary
Agriculture Cooperative Bank)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus, calling for the records relating



W.P.No.30110 of 2024

to the impugned proceeding of the 1st respondent vide Aa.Thi.Mu.1761/2024/a3 dated 20.06.2024 returning the revision petition filed by the petitioner herein and consequently direct the 1st respondent herein to receive the petitioner's revision petition filed under Sec 153 of Tamil Nadu Co-operative Societies Act, 1983 number and hear the same and pass order accordance with law in the light of the judgment reported in 2012 (iv) CTC 257.

For Petitioner : Mr.M.Venkadeshan
For Respondents : Mr.M.Murali
Government Advocate

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceeding of the 1st respondent vide Aa.Thi.Mu.1761/2024/a3 dated 20.06.2024 returning the revision petition filed by the petitioner herein and consequently direct the 1st respondent herein to receive the petitioner's revision petition filed under Sec 153 of Tamil Nadu Co-operative Societies Act, 1983 number and hear the same and pass order accordance with law in the light of the judgment reported in 2012 (iv) CTC 257.



W.P.No.30110 of 2024

2. Mr.M.Murali, learned Government Advocate, accepts notice on behalf of the respondents. In view of the consent expressed by the learned counsel for the parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that, he was appointed as Secretary on 23.01.1993 in the Rajapadmapuram Primary Agricultural Co-operative Society and the said society was liquidated and now, represented by the 3rd respondent. When the petitioner was working as secretary in the 3rd respondent bank, the then president of the 3rd respondent bank, viz., Sathya Moorthy obtained a loan and committed default in repaying the loan. Hence, the petitioner being the secretary of the 3rd respondent bank, at the relevant point, preferred necessary applications for initiating arbitration proceedings for recovering the loan amount from the defaulters including the said Sathya Moorthy. Hence, he got annoyed and snatched the 3rd respondent bank's building key and cash amount of Rs.26,480/- on 05.01.1998 from the petitioner's possession. He also grabbed his neck and head out with the help of the salesman Jayasundaram. In connection with the said incident, the petitioner preferred a complaint dated 06.01.1998 to the Thiruvananthapuram



W.P.No.30110 of 2024

Police Station and though CSR was issued, but no action was taken till date. Pursuant to the above incident, the said Sathya Moorthy, the then President of the 3rd respondent bank developed enmity with the petitioner and showed communal hatred against the petitioner and the petitioner was compelled to say that though the Constitution of India and statute forbid committing atrocities against Scheduled Caste Community in reality fact remains that it is difficult to raise to the occasion and oppose atrocities committed against SC/ST communities. The said Sathya Moorthy took revenge against the petitioner by exercising his power as President of the 3rd respondent bank arbitrarily and suspended the petitioner from service on 17.01.1998. Thereafter, disciplinary proceedings was initiated against the petitioner and charge memo was issued on 17.04.1998 alleging that he had committed misappropriation to a tune of Rs.44,048.07/- and the petitioner submitted his detailed explanation dated 23.09.1998 narrating all the illegal activities done by the then President Sathya Moorthy. Thereafter, the petitioner was dismissed from service vide order dated 07.12.1998. Challenging the same, the petitioner had filed a writ petition in W.P.No.19941 of 2002 and the same was dismissed with liberty to the petitioner to go before the Joint Registrar to canvass all the points raised in the writ petition vide



W.P.No.30110 of 2024

order dated 25.10.2010. Thereafter, the petitioner had approached the 1st

respondent under Tamil Nadu Shops and Establishments Act, 2008 in

T.N.S.E.11/13/2023 and the same was dismissed vide order dated

12.04.2024 on the basis of the order passed by this court in the said writ

petition. Apart from the disciplinary proceedings, the 3rd respondent bank

also initiated criminal proceedings in C.C.No.184 of 2001 against the

petitioner for the offence u/s 408 of IPC and the trial court convicted the

petitioner. Aggrieved by the same, the petitioner had preferred an appeal

in Crl. Appeal No.13 of 2009 on the file of the 1st Additional Sessions

Court, Tiruvallur and the appellate court acquitted the petitioner vide

judgment dated 25.09.2013. Thereafter, the petitioner had filed a revision

petition before the 1st respondent challenging the dismissal order dated

07.12.1998 and the 1st respondent had returned the same vide order dated

20.06.2024 assigning reasons (i) as per rule 169(2) of the Tamil Nadu

Co-operative Societies Act, 1983, the petitioner sought for revision

without attaching the copy of the order or judgment or award, (ii) the

revision petition was not submitted within limitation period (90 day)

under Section 153(1) of the Act and (iii) further, revision petition fees of

Rs.1,000/- not paid in the appropriate account head. Challenging the

same, the petitioner has filed the present writ petition before this court.



W.P.No.30110 of 2024

WEB COPY

4. Learned counsel appearing for the petitioner submitted that though the petitioner annexed the copy of the order dated 07.12.1998, for a long period of time, the order is not available with the petitioner, since the petitioner is questioning the said order before this court as well as Shops Authority, however, the present revision is filed only after the case was ended in acquittal as against the petitioner. After acquittal, the petitioner is entitled to make appropriate application before the 1st respondent for re-consideration of the termination order passed by the 3rd respondent bank dated 07.12.1998. Further, the delay is due to bonafide reason, since all those issues are pending before the criminal court as well as the lower appellate court. Finally, the lower appellate court set aside the conviction order, in which the petitioner is entitled to make application before the 1st respondent and the 1st respondent ought to have considered the same on merits and in accordance with law. However, the 1st respondent had dismissed the same by assigning three reasons, which is *per se* unsustainable. Accordingly, he prays for allowing the writ petition.



W.P.No.30110 of 2024

WEB COPY

5. Learned Government Advocate appearing for the respondents submitted that, in W.P.No.19941 of 2002 the order of termination passed by the 3rd respondent dated 07.12.1998 was challenged before this court and this court dismissed the same vide order dated 25.10.2010 directing the petitioner to go before the 1st respondent to canvass all the points raised in the said writ petition. Without doing so, the petitioner had filed application before the Shops Authority, which is wholly unsustainable, thereby the Shops Authority dismissed the same. Even then, the petitioner had not filed any revision under the Society's Act and after the case ended in acquittal, the present revision is filed, which is wholly unsustainable. Further, what is required in the criminal case is beyond reasonable doubt and what is required in disciplinary proceedings is preponderance of probabilities. The aspect of preponderance of probabilities was already considered by the 3rd respondent and dismissed the petitioner from service, however, till date, the said order was not challenged, therefore, the impugned order passed by the 1st respondent cannot be interfered with. Accordingly, he prays for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and the



W.P.No.30110 of 2024

learned Government Advocate appearing for the respondents and perused the materials available on record.

7. Admittedly, the petitioner was employed as Secretary of the 3rd respondent bank and it is alleged that he committed misappropriation, thereby disciplinary proceedings was initiated and finally, the order of termination was passed by the 3rd respondent on 07.12.1998. It is not in dispute that petitioner had filed a writ petition before this court in W.P.No.19941 of 2002 and this court, by its order, dated 25.10.2010 dismissed the same for not exhausting the alternative remedy available under the Act. Ultimately, the 1st respondent dismissed the revision filed by the petitioner and the criminal case initiated as against the petitioner was ended in acquittal. Thereafter, the petitioner had filed a revision before the 1st respondent and the 1st respondent had returned the same by assigning three reasons. However, the first and second reason assigned by the 1st respondent is *per se* unsustainable. Merely because the petitioner had not annexed the original order cannot vitiate the revision filed by the petitioner and the delay cannot be held against the petitioner, since after the criminal case ended in acquittal, the petitioner preferred revision before the 1st respondent, thereby, the 1st respondent ought to have



W.P.No.30110 of 2024

considered the same on merits and in accordance with law and ought to have passed appropriate orders. Without doing so, the 1st respondent has returned the revision by assigning reasons, therefore, the impugned order passed by the 1st respondent is liable to be set aside.

8. Accordingly, the impugned order is set aside and the matter is remanded to the 1st respondent for fresh consideration and the petitioner is directed to send Demand Draft for a sum of Rs.1,000/- along with copy of the order. While re-considering the same, the 1st respondent is directed to decide the revision on merits and in accordance with law.

9. With the above observations and directions, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

15.10.2024

Index: Yes/ No
Speaking Order/ Non-Speaking Order
Neutral Citation Case : Yes / No
sp



WEB COPY



W.P.No.30110 of 2024

M.DHANDAPANI, J.,

sp

To

- 1.The Joint Registrar of Cooperative Society,
Tiruvallur region,
Tiruvallur.
- 2.The Deputy Registrar of Cooperative Society,
Tiruttani Circle,
Tiruttani.
- 3.The Sub-Registrar of Cooperative Society,
(Excision and liquidation),
Kancheepuram Central Cooperative Society,
Kancheepuram – 631 501.

W.P.No.30110 of 2024

15.10.2024