



W.P.No.366 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.09.2024

Pronounced on : 21.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.366 of 2020 and
WMP.No.412 of 2020

K.Shaktivel

... Petitioner

Vs.

1. Govt. of Puducherry,
Rep. By its Secretary (Co-operative Societies),
Chief Secretariat Office,
Puducherry
2. Registrar of Co-op Societies,
VVP Nagar, Thattanchavady,
Puducherry-9
3. The President,
Indian Coffee Workers Co-operative Society-P67,
J.N.Street, Puducherry
4. General Manager,
Indian Coffee Workers Co-operative Society-P67,
J.N.Street, Puducherry
5. K.Ramachandran

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the records
of the second respondent in Revision Petition 2/2019 dated 09.10.2019



W.P.No.366 of 2020

and to quash the same and consequently direct the fourth respondent to reinstate the petitioner.

For Petitioner : Mr.J.Srinivasamohan
for M/s.TVJ Associates

For Respondents
For R1 & 2 : Mrs.G.Djearany,
Government Advocate

For R3 to 5 : Mr.R.Saravanan

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 09.10.2019 thereby dismissed the revision filed by the petitioner and confirmed the order of termination issued by the third respondent.

2. The petitioner was appointed as Machine Man in the third respondent Society. Thereafter, the petitioner was relocated as Bearer Grade-I of the third respondent hotel. In the year 2014, he was posted as Manager in-charge for two branches of the third respondent. While being so, the petitioner was served with charge memo consisting 9 charges. Without being satisfied with the explanation submitted by the petitioner,



W.P.No.366 of 2020

enquiry officer was appointed to conduct enquiry. The enquiry officer conducted enquiry and found the charges not proved. Once again, another enquiry officer was appointed in the place of the first enquiry officer and concluded that the charges were proved against the petitioner. The petitioner was served with second show cause notice. After submission of explanation, the petitioner was imposed with punishment of reduction in rank by two stages. In the meanwhile, the petitioner was suspended from service. The petitioner challenged both the order of suspension and punishment imposed on him by way appeal and obtained interim order of stay. Once again, the petitioner was served with another set of charges dated 27.02.2016. On the said charges, enquiry officer was appointed, who thereafter conducted enquiry. The enquiry officer concluded that the charges were proved against the petitioner.

2.1 In the meanwhile, the appeal filed by the petitioner was disposed of by an order dated 15.03.2017 thereby directed to keep the order of punishment in abeyance in order to rectify the mistakes and to follow correct procedures. However, the petitioner was not permitted to



W.P.No.366 of 2020

join duty. On the second set of charges, the petitioner was imposed with punishment of dismissal from service. Aggrieved by the same, the petitioner filed revision before the second respondent and the same was also dismissed, against which the present writ petition has been filed.

3. *Mr.J.Srinivasa Mohan*, the learned counsel appearing for the petitioner would submit that an advocate was appointed as Enquiry Officer. In fact, the appellate authority ordered to keep the first punishment of reduction in rank by two stages in abeyance and while pending the said proceedings, the petitioner was served with second charge and conducted enquiry, that too by an advocate. The third respondent is the appellate authority and has no jurisdiction to impose the punishment of dismissal from service. The fourth respondent is the authority to impose punishment and the third respondent is the appellate authority. It caused prejudice to the petitioner and the petitioner could not able to exhaust the appeal remedy. Even the appellate authority granted stay of punishment of reduction in rank and stay of the order of suspension. The petitioner was not permitted to join duty and he was not



W.P.No.366 of 2020

reinstated into service. The order of punishment is not in consonance with the bye-laws of the third respondent society. In fact, the enquiry report suggested for lesser punishment, but the said suggestion was enhanced by way of imposing punishment of dismissal from service. The revision authority without considering any of the grounds raised by the petitioner, mechanically dismissed the revision filed by the petitioner.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. On perusal of the counter filed by respondents 3 to 5 and on hearing the submissions of *Mr.R.Saravanan*, the learned counsel appearing for respondents 3 to 5, revealed that the petitioner was served with first set of charge memo consisting 9 charges. The charges against the petitioner were with regards to wilful manipulation of stocks, falsification of accounts, misappropriation of society's fund, creation of bogus entries in the attendance register and in connivance with worker, committed criminal offence of snatching gold chain from public women



W.P.No.366 of 2020

for his personal gain and other various illegalities. Therefore, illegalities of the petitioner caused huge loss in the third respondent. Though the first enquiry officer was appointed, the enquiry officer returned the enquiry file on the ground that he was pre-occupied with professional work and as such, he was not in a position to complete the domestic enquiry assigned to him. Therefore, it cannot be said that the first enquiry officer did not find any merit and as such, he did not proceed with further enquiry on the charges.

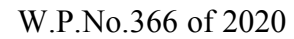
6. After returning the entire disciplinary proceedings file, another officer was appointed to enquire the domestic enquiry. Accordingly, he conducted enquiry and on the basis of the enquiry report, the petitioner was imposed with punishment of reduction in rank by two stages. While appeal was pending as against the said punishment, the petitioner was served with second set of charges. On receipt of the complaint, the second respondent appointed Cooperative Officer as statutory enquiry officer to conduct enquiry under Section 75 of Puducherry Cooperative Societies Act, 1972 on the allegation of



W.P.No.366 of 2020

misappropriation of funds. As per the report submitted by the statutory enquiry officer, it was found that the petitioner / Manager in-charge was responsible for cash deficit of Rs.350/- on 04.11.2015 and the petitioner and another are equally responsible for stock deficit of Rs.3,600/- on 01.12.2014. On the basis of the enquiry report, the petitioner was imposed with punishment of removal from service.

7. Further, the third respondent is competent to appoint and terminate the members / workers of the society. The bye laws No.36 deals with the powers and duties of the President. As per clause 5 of the bye-law, the third respondent is empowered to appoint workers of the Society and clause No.9 paragraph 36 of the bye-laws empowers the third respondent to initiate disciplinary proceedings as against the erred employees. Paragraph 38 of the Subsidiary Regulation, empowers the appointing authority to terminate a permanent employee from the services of the Society on the basis of the disciplinary proceedings. Therefore, the third respondent has ample power to initiate disciplinary proceedings and to impose punishment on an employee. As such, the order of termination



8. In view of the above, this Court finds no infirmity or illegality in the impugned order passed by the second respondent dated 12.05.2019. As such, this writ petition lacks merits and the same is liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

21.10.2024

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok



W.P.No.366 of 2020

WEB COPY

To

1. Secretary (Co-operative Societies),
Govt. of Puducherry,
Chief Secretariat Office,
Puducherry
2. Registrar of Co-op Societies,
VVP Nagar, Thattanchavady,
Puducherry-9
3. The President,
Indian Coffee Workers Co-operative Society-P67,
J.N.Street, Puducherry
4. General Manager,
Indian Coffee Workers Co-operative Society-P67,
J.N.Street, Puducherry



WEB COPY



W.P.No.366 of 2020

G.K.ILANTHIRAIYAN, J.

lok

W.P.No.366 of 2020

21.10.2024