



W.A. (MD) No. 393 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 14.03.2024

PRONOUNCED ON : 25.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A(MD).No.393 of 2024
and CMP(MD).No.3513 of 2024

S.Gurumoorthy

...Appellant/Petitioner

Vs

**1.The State of Tamil Nadu
Represented by its Principal Secretary to Government
Co-operative Food and Consumer Protection Department
Fort St.George
Chennai 9**

**2.The Registrar of Co-operative Societies
Office of the Registrar
170, EVR Road
Poonamallee High Road
Kilpauk, Chennai -10**

....Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 11.01.2023 in WP(MD).No.11405 of 2020.



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For Appellant : Mr.S.Ramsundarvijayan

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The writ petitioner is the appellant. After departmental proceedings, the petitioner was imposed with a punishment of stoppage of increment for one year with cumulative effect by an order dated 28.12.2017. The petitioner had filed a review before the Government which was dismissed on 11.02.2020. Challenging these two orders, the petitioner had filed the above writ petition.

2.After considering the submissions made on either side, the writ Court had dismissed the writ petition after arriving at a finding that the respondents in the writ petition have established the allegation of lack of supervision and the punishment imposed is not disproportionate to the proved misconduct. Challenging the same, the present writ appeal has been filed.

(A) Facts leading to the filing of the present writ appeal are as follows:

3.The petitioner herein was serving as a Managing Director of the District



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Central Co-operative Bank, Virudhunagar and he was holding additional charge as In-charge Officer, Regional Joint Registrar of Co-operative Societies in Virudhunagar for the period between 30.10.2012 to 23.02.2016. He was issued with a charge memo on 09.02.2015 under Rule 17(b) of Tamil Nadu (Discipline and Appeal) Rules alleging that due to lack of supervision on his part, he had not prevented the irregularity in the Primary Agricultural Co-operative Society at Reddiapatty and Nadayaneri. The petitioner had submitted his explanation on 27.01.2015.

4. An Enquiry Officer was appointed and he had submitted his report on 02.11.2015 with a finding that the charges are proved. The enquiry report was furnished to the writ petitioner on 27.02.2017 and the petitioner had submitted further representation on 06.07.2017 and 28.07.2017. After considering the further representation, the first respondent by an order dated 28.12.2017 had imposed punishment of stoppage of increment of one year with cumulative effect. The petitioner had preferred a review before the first respondent on 19.02.2018, but the same was dismissed on 11.02.2020. Challenging the same, the petitioner had filed the above writ petition.



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5.The petitioner had contended that even as per the imputation of charges, it is only lack of supervision and there is no malafides or personal benefits or bias in not taking action as per the charge memo issued to the delinquent subordinate employees. The lack of supervision cannot be considered to be a misconduct under Tamil Nadu Government Servants Conduct Rules.

6.He had further contended that even before the petitioner had joined duty at Virudhunagar, proceedings have been initiated as against the delinquent staff by Circle Deputy Registrar of Co-operative Society. Therefore, charges against the petitioner that he was lacking in supervision is not factually correct.

7.The petitioner had further contended that the enquiry officer had not examined any witness so as to support the charge of lack of supervision in both the Co-operative Societies. Therefore, the enquiry officer was not correct in holding that the charges are proved. The disciplinary authority has not considered any of the material placed by him and he has simply enquired the report and proceeded to impose punishment.



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8.The writ Court by its order dated 11.01.2023, after considering the submissions made on either side, arrived at a finding that the in-charge officer who had served prior to the writ petitioner had taken effective steps as against the delinquent employees. However, after joining duty, the petitioner has not proceeded with the departmental proceedings and therefore, the misconduct of lack of supervision has been proved. On the said observation, the writ Court had dismissed the writ petition. Challenging the present writ appeal has been filed.

(B).Contentions of the learned counsel appearing for the appellant/petitioner are as follows:

9.The charge of lack of supervision is a minor charge and even assuming that the four charges are prima facie established, there is no malafide or personal benefits or bias in not taking action as against the delinquent employee. He had further contended that there is no violation of Tamil Nadu Government Servants Conduct Rules.

10.The learned counsel for the petitioner had further contended that the charges relate to non taking of any action pertaining to the fixed deposit of deceased customers. In fact, he had explained that there was a dispute among



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the legal heirs of the said fixed depositor and therefore, no action could be initiated. The learned counsel had further contended that the complaint as against the delinquent employee were given on 12.12.2011, 13.02.2012 and 19.02.2012 and hence, the allegation of lack of supervision as against the writ petitioner would not arise. He had further contended that as per the enquiry report, there is no allegation of criminal misconduct in the transaction and the petitioner has taken diligent action in order to safeguard the interest of the society. He had further submitted that the writ Court had not properly appreciated the facts and has proceeded to simply confirm the punishment which is disproportionate. Hence, he prayed for allowing the writ appeal.

11. We have carefully considered the submissions made on the side of the writ petitioner and perused the material records.

(C).Discussion:

12. The petitioner was serving as a Managing Director of the District Central Co-operative Bank, Virudhunagar and at the same time, he was holding additional charge as In-charge Officer, Regional Joint Registrar of Co-operative Societies in Virudhunagar. In the said station, the period of service is between 30.10.2012 and 23.02.2016.



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13.A perusal of the charge memo clearly indicate that though the delinquency had happened prior to the appointment of the writ petitioner at Virudhunagar, the enquiry report under Section 87 of the Tamil Nadu Co-operative Societies Act has been filed during his tenure in October 2013. However, the petitioner has not chosen to proceed further pursuant to the said award under Section 87 of the Tamil Nadu Co-operative Societies Act. Though a huge amount was misappropriated by the delinquents and criminal prosecution was recommended in the surcharge proceedings, the petitioner has not chosen to lodge any

complaint. That apart, though the proceedings have been initiated by his predecessor, he had not continued the said proceedings as against the delinquent during his tenure. Therefore, we are of the considered opinion that the allegation of lack of supervision has been proved.

(D).Conclusion:

14.The Disciplinary Authority after considering the explanation submitted by the writ petitioner has chosen to impose the punishment of stoppage of increment for one year with cumulative effect. Considering the gravity of charges and the amounts of misappropriation involved in the



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delinquency coupled with lack of supervision, we are of the considered opinion that the imposition of stoppage of increment for one year with cumulative effect is not in any way disproportionate to the proved charges.

15. There are no merits in the writ appeal and the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.,)

(R.V.J.,)

25.03.2024

Index :yes
Internet :yes
NCC : Yes/No
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To

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AND
R.VIJAYAKUMAR, J.**

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Pre-delivery Judgment made in
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