



W.P.(MD).No.12086 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.12086 of 2022

S.Sathyamoorthy

... Petitioner

Vs

1. The Joint Registrar of Co-Operative Societies,
Ramanathapuram Region,
Ramanathapuram District.
2. The Managing Director,
Ramanathapuram Central Co-Operative Bank Ltd,
265-E, Vandikara Street,
Ramanathapuram - 623 501.
3. The President,
Ramanathapuram Central Co-Operative Bank Ltd,
265-E, Vandikara Street,
Ramanathapuram - 623 501.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for records in Na.Ka.No. 634/2022/Sa.Pa, dated 10.03.2022 on the file of the 1st respondent and proceeding in Na.Ka.No. 000833/2019/E1, dated 29.11.2021 on the file of the 3rd respondent and quash the same as illegal.



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For Petitioner : Mr. S.Kumar

For Respondents : Mr.S.Shaji Bino(R1)
Special Government Pleader

Mr.D.Shanmugaraja Sethupathy (R2,3)

ORDER

The present writ petition has been filed challenging the impugned orders in Na.Ka.No. 634/2022/Sa.Pa, dated 10.03.2022 on the file of the 1st respondent and in Na.Ka.No. 000833/2019/E1, dated 29.11.2021 on the file of the 3rd respondent.

2.Heard, the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the first respondent and the learned Counsel appearing for the second respondent. Perused the materials on record.

3.(i).The petitioner was appointed as Assistant Manager at Ramanathapuram Central Co-operative Bank Ltd on 29.12.2011. While he was working as Cashier/Assistant Manager at Nainarkovil Branch, he was placed under suspension with effect from 01.10.2018 based on the report of the Inspection Committee from Ramanathapuram Central Co-Operative Bank, he



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was issued with a charge-memo, dated 18.01.2019 by the second respondent.

Subsequently, another charge-memo, dated 16.11.2019 came to be issued based the enquiry report for the same set of allegations. After domestic enquiry, on 29.10.2020, a show-cause notice was issued. Vide order, dated 29.11.2021, the petitioner was dismissed from service by the third respondent.

(ii).Challenging the same, the petitioner has preferred a revision petition u/s.153 of Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as ‘the Act’) before the first respondent and the same was dismissed by the first respondent, vide proceedings, dated 10.03.2022. Challenging the order of dismissal by the third respondent and order of dismissal of appeal by the first respondent, this writ petition has been filed.

4.The learned counsel for the petitioner vehemently submitted that the third respondent has no authority to pass the impugned order of termination against an employee. Rule 7(iv), Rule 146 of the Tamil Nadu Co-operative Societies Rules, 1988 contemplates that the second respondent is the competent person to award any punishment on any members of the establishment. Therefore, the impugned order passed by the third respondent to terminate the



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petitioner from service and the confirmation order passed by the first respondent are perse illegal and prayed to allow the petition.

5.The learned counsel appearing for the respondents 2 and 3 filed a counter and submitted that in addition to the disciplinary proceeding, the Deputy Registrar has initiated surcharge proceedings and issued a show-cause notice under section 87(1) of the Act seeking explanation in respect of the finding in the enquiry report against the petitioner. The petitioner had submitted his explanation, thereafter, the Deputy Registrar of the Society had adjudicated the surcharge proceedings in accordance with Section 87 of the Act. That apart, the Commercial Crime Investigation Wing has registered a criminal case in Crime No.6 of 2021 against the petitioner and others for various irregularities and misappropriation and the same is pending before CCIW, Ramanathapuram. In view of the same, it is not necessary to interfere with the orders passed by the respondents. Hence, prayed to dismiss the petition.

6.However, this Court is of the considered view that the impugned order has been passed by the third respondent without any jurisdiction. The 2nd



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respondent is the competent authority to award any punishment on any member of the establishment as specified by Rule 146(7)(iv) of the Tamil Nadu Co-operative Societies Rules, 1988. Hence, on the question of jurisdiction, this Court hereby quash the impugned order, dated 10.03.2022 and remand the matter back to the first respondent to pass appropriate order in accordance with law, within a period of twelve (12) weeks from the date of receipt of copy of this order.

7. Accordingly, this petition stands partly allowed. There shall be no order as to costs.

02.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes

Note: Registry is directed to return the original impugned order to the learned counsel for the petitioner, after substituting the same with the xerox copy

PNM

To

1. The Joint Registrar of Co-Operative Societies,
Ramanathapuram Region,
Ramanathapuram District.



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L.VICTORIA GOWRI, J.

PNM

ORDER IN
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