



W.P.(MD)No.13694 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13694 of 2017

A.S.Chinnasshami

... Petitioner

versus

1. The Registrar,
Co-operative Societies,
N.V.N. Natarajan Maaligai,
170, E.V.R.High Road, Kilpauk,
Chennai – 10.
2. The Regional Joint Registrar,
Office of the Regional Joint Registrar
of Co-op. Societies,
Madurai Region,
Madurai.
3. The Deputy Registrar,
Co-operative Societies,
Usilampatti Circle,
At present Thirumangalam,
Madurai District.



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4. The President,
M.D.Special 121, Pasukkaranpatti
Primary Agricultural Co-operative Bank Ltd.,
Boothipuram Post,
Usilampatti Taluk,
Madurai District – 625 532.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the respondents resulting in the 4th respondent's impugned order dated 04.07.2017 and quash the same and direct the respondents to reinstate the petitioner in service and treat the period of suspension as on duty and pay the arrears of salary, due increments, revision of pay and all attendant and monetary benefits, backwages and all other payment which are legally entitled to the petitioner.

For Petitioner : Mr.V.R.Venkatesan

For R1 to R3 : Mr.P.T.Thiraviam,
Government Advocate

For R4 : Mr.R.R.Kannan

ORDER

The petitioner, the then Secretary of M.D.Special 121,
Pasukkaranpatti, Primary Agricultural Co-operative Bank Ltd.,



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Boothipuram Post, Usilampatti Taluk, was dismissed from service by the President of the Society, by his order dated 04.07.2017 and the same is challenged in this writ petition.

2. The learned counsel appearing for the petitioner submits that for the dereliction said to have been committed in the year 1995, the petitioner was placed under suspension and a charge memo was issued on 16.05.1996, however, it was served only on 23.08.2002. Thereafter, the suspension order was revoked on 21.08.2002 and the petitioner was reinstated into service and allowed to work from 23.08.2002 to 27.04.2011. However, a domestic enquiry was conducted in the year 2014 and the Enquiry Officer submitted his report on 01.03.2017 and the petitioner was imposed with a punishment of dismissal from service, since he has claimed for subsistence allowance by filing a writ petition in the year 2016.

3. According to the learned counsel for the petitioner, all the



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charges mentioned in the charge memo dated 16.05.1996 have been rectified by the Special Officer on 06.09.1995 itself and he has also sent a report. However, a charge memo was issued on 16.05.1996 and the same was not served to the petitioner till 2002. When the petitioner claimed for subsistence allowance and salary arrears, an enquiry was conducted and the petitioner was imposed with a major punishment of dismissal from service. The learned counsel further submits that the entire amount as shown in 13 charges were already recovered with interest. Therefore, the question of loss to the Society does not arise.

4. The learned counsel appearing for the 4th respondent Society submits that while the petitioner had been working as Secretary of the Society, he had misappropriated a sum of Rs.946923.53p from the funds of the Society and he was absent from duty on 06.02.1995. Therefore, he was suspended from service and a charge memo dated 16.05.1996 was issued. The learned counsel further submits that the



petitioner, during his tenure as Secretary, had misappropriated another a sum of Rs.30,32,283/- by way of bogus loans issued to 88 members of the Society. The petitioner had also included the above bogus loans in the loan waiver scheme and the loan outstanding were waived. After the loans were waived, the beneficiaries as per the list of waiver scheme, approached the authorities and filed complaints that they have not received any loan from the Society. Therefore, the Deputy Registrar, Usilampatti, ordered for an enquiry under Section 81 of the TNCS Act 1983. The enquiry report submitted by the enquiry officer reveals that the beneficiaries of loan waiver scheme have not received any crop loan from the society.

5. The learned counsel for the respondent Society further submits that the Deputy Registrar, Usilampatti, initiated surcharge action against the petitioner and ordered to recover the amount of Rs.30,32,283/- from the petitioner with interest. Aggrieved over the same, the petitioner filed an appeal before the appellate authority in



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CMA (CS) No.28 of 2011. In the above appeal, the surcharge order dated 28.07.2010 was set aside by the learned Principal District Judge, Madurai. Aggrieved over the same, the Society filed a petition under Article 227 of the Constitution of India in CRP(MD)No.1267 of 2021 and CMP(MD)Nos.7280 and 8237 of 2021. This Court, by its order dated 22.11.2021, allowed the petition by setting aside the order of the learned Principal District Judge, Madurai and directed the petitioner to pay a sum of Rs.30,32,283/- with 18% interest from the date of surcharge order within a period of six months from the date of receipt of a copy of the order. After the receipt of the order, he has not paid the amount so far. Aggrieved over the same, the petitioner has approached the Hon'ble Apex Court and filed SLP (Civil) No.12652 of 2022. Though the above matter is in no way connected with the disciplinary action against the petitioner challenged in the present writ petition, he has suppressed the actual position of the surcharge order mentioned and tried to relate it to the disciplinary action to confuse and gain something in his favour.



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6. This Court considered the rival submissions made.

7. The petitioner was dismissed from service on the allegation of misappropriation. The Management, based on the Enquiry Officer's report, has passed the impugned order based on the charge memo dated 16.05.1996. As against the order of punishment, the petitioner is having an alternative remedy under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner, without invoking the same, has filed the above writ petition.

8. Since the petitioner is having an alternative remedy, this Court, without expressing anything on the grounds raised on either side, is inclined to dispose of the writ petition with liberty to the petitioner to file a necessary application under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983.



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9. Accordingly, this writ petition is disposed of with liberty to the petitioner to file a necessary application under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, within a period of three months from the date of receipt of a copy of this order. The revisional authority shall entertain the revision, without insisting on the limitation period, considering the pendency of the writ petition before this Court. No costs.

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dsk/ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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