



W.P.(MD)No.13696 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.13696 of 2017

and

W.M.P.(MD).Nos.10692 & 10693 of 2017 & 2265 of 2022

Selvi S.Selvi

... Petitioner

Vs.

- 1.The Principal Secretary Corporation,
Food and Consumer Production Department,
Tamil Nadu Government, Chennai.
- 2.The Registrar of Co-operative Societies,
175, Periyar EVR High Road,
Kilpauk, Chennai.
- 3.The Joint Registrar of Co-Operative Societies,
Thanjavur Region,
Swamiyappa Co-Operative Training Institute Complex,
Medical College Road, Thanjavur - 613 007.
- 4.The Deputy Registrar Of Co-Operative Societies,
Medical College Road,
Thanjavur - 613 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of of Certiorarified Mandamus, to call for the records and



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quash the final order of the third respondent disciplinary proceedings in Na.Ka.No. 8303/2011/Ka, dated 04.12.2013 and consequently give the financial benefits at par with the petitioner's batch mates.

For Petitioner : Mr.P.Sivachandran

For Respondents : Mr.G.Suriya Ananth,
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order, dated 04.12.2013, passed by the third respondent, imposing the punishment of withholding of three months increment with cumulative effect on the petitioner.

2. The petitioner has challenged the impugned order on the ground of violation of principles of natural justice. According to him, the enquiry was not conducted in a proper manner and he was not furnished with the documents sought for by him in the enquiry proceedings. No reasons have been given in the impugned order as to why those documents cannot be given.

3. The petitioner was earlier appointed as an Enquiry Officer to enquire into the allegations of misappropriation as per Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner submitted an enquiry report in the said proceedings holding that certain persons are responsible for



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misappropriation of funds. On account of the alleged improper enquiry conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, wherein, the petitioner was appointed as an Enquiry Officer, the respondents have charged the petitioner in the disciplinary proceedings initiated against her, as according to the respondents, the petitioner failed to take note of certain amount involving the subject Society amounting to Rs.1,94,085.70/-.

4. The petitioner has been exonerated in surcharge proceedings initiated against the subject Co-operative Society, which is also not disputed by the respondents. According to the petitioner, despite being exonerated, the respondents have continued to proceed against the petitioner in respect of the charges framed against her, which is improper and illegal. The petitioner also claims that the relevant documents which is the basis of the enquiry initiated against the petitioner were sought for, but, without granting the copy of the same and without assigning any reasons for not granting the said documents to the petitioner, the respondents have found the petitioner to be guilty of the charges framed against her and have imposed the punishment of withholding of three months increment with cumulative effect, which is improper and illegal. The petitioner had also filed an appeal as against the impugned order, dated 04.12.2013, before the second respondent and the second respondent had



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confirmed the order of the third respondent by upholding the punishment.

However, the petitioner contends that, once again, the second respondent failed to take note of the fact that the documents sought for by the petitioner were not furnished to her in the enquiry proceedings, despite her specific request. Therefore, the petitioner filed a revision before the first respondent and the same was also rejected by the first respondent. Aggrieved by the same, she has filed this Writ Petition.

5. A counter affidavit has been filed by the respondents in this Writ Petition reiterating the contents of the impugned order.

6. Admittedly, the petitioner has been exonerated in the surcharge proceedings initiated against T.859 Alakkudi Primary Agricultural Co-operative Credit Society Limited, Thanjavur. The petitioner was an Enquiry Officer pertaining to the proceedings initiated against the aforementioned Society under the provisions of the Tamil Nadu Co-Operative Societies Act, 1983, for the alleged misappropriation. The charges framed against the petitioner in the disciplinary proceedings is that she had failed to take note of certain amount involving the subject Society amounting to Rs.1,94,085.70/- and only on the said ground, the charges have been framed against the petitioner in the



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disciplinary proceedings initiated against her. In the enquiry conducted by the petitioner with regard to the aforementioned Society, the petitioner in her enquiry report has submitted a report holding that some of the employees (4 in number) of the said Society are found guilty. Thereafter, surcharge proceedings were initiated against the delinquents as well as the petitioner, which was subsequently dropped insofar as the petitioner is concerned and the same is also not disputed by the respondents as seen from their counter affidavit.

7. Admittedly, the documents sought for by the petitioner in the enquiry proceedings through her letter, dated 16.07.2012, have also not been furnished by the respondents as seen from the impugned order. Though the respondents made contentions that the petitioner could have inspected those documents at the respondents' office, the said contention cannot be accepted by this Court, when a specific request has been made by the petitioner in the disciplinary proceedings seeking for a copy of the documents which according to the petitioner are relevant for the purpose of her defence.

8. The respondent Nos.1 to 3 while passing their respective orders confirming the punishment imposed on the petitioner, viz., withholding of three months increment with cumulative effect, have failed to take note of the



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contentions raised in this Writ Petition, primarily, one being dropping of the surcharge proceedings against the petitioner as well as non furnishing of the documents requested by the petitioner. Since the surcharge proceedings initiated against the petitioner has been dropped and the petitioner has also not been furnished with the documents sought for by her during the course of the enquiry in the disciplinary proceedings initiated against her, this Court is of the considered view that the punishment imposed on the petitioner, viz., withholding of three months increment with cumulative effect is harsh and does not commensurate with the nature of charges framed against her in the disciplinary proceedings. The punishment of withholding of three months increment with cumulative effect will certainly affect the petitioner's pension and since the impugned orders have been passed without following the strict rules and procedures in the disciplinary proceedings, this Court is of the considered view that in view of the reasons stated supra, the punishment of withholding of three months increment with cumulative effect imposed on the petitioner has to be reduced to withholding of three months increment without cumulative effect.

9. Accordingly, the impugned order, dated 04.12.2013, passed by the third respondent, is modified, by imposing punishment of withholding of three



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months increment without cumulative effect on the petitioner instead of withholding of three months increment with cumulative effect.

10. In view of the modification of the punishment to a lesser one, this Court will have to permit the petitioner to submit a representation to the respondents seeking for monetary benefits in view of the reduction of the punishment and a direction will have to be issued to the respondents to consider the same on merits and in accordance with law within a time frame to be fixed by this Court.

11. In the result, the punishment imposed on the petitioner under the impugned order, dated 04.12.2013, passed by the third respondent, is modified to withholding of three months increment without cumulative effect instead of withholding of three months increment with cumulative effect and the petitioner is permitted to give a representation to the third respondent seeking for monetary benefits, which she has lost on account of the punishment of withholding of three months increment with cumulative effect imposed on her under the impugned order and the subsequent modification by this Court to one of punishment of withholding of three months increment without cumulative effect within a period of two weeks from the date of receipt of a copy of this



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order. On receipt of the said representation, the third respondent shall pass final orders on merits and in accordance with law within a period of twelve weeks thereafter.

12. With the aforesaid direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

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ABDUL QUDDHOSE, J.

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