



W.P.(MD)No.23775 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.10.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

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and

W.M.P.(MD)No.19956 of 2017

S.Arumuga Ganesh

... Petitioner

/Vs./

1.The Joint Registrar of Co-Operative Societies,
Tirunelveli.

2.The Managing Director,
Palayamkottai Co-Operative Urban Bank,
Palayamkottai, Tirunelveli District.

3.Saravanakumar,
Ex-President,
Palayamkottai Co-Operative Urban Bank,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the impugned order passed by the 1st respondent in Na.Ka.No.768/2016/Sa.Pa dated 30.05.2017 and to quash the same as illegal as far as considering the period of suspension from 25.05.2015 to 13.01.2016 as period of punishment.



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For Petitioner : Mr.K.R.Laxman
For Respondents : Mr.S.Kameswaran (R1 & R2)
Government Advocate
: No appearance (R3)

ORDER

This writ petition has been filed challenging the impugned order dated 30.05.2017 passed by the first respondent setting aside the punishment of termination of the petitioner imposed by the second respondent vide his order dated 13.01.2016 and modifying the said punishment by treating the period of suspension of the petitioner as his punishment.

2. In the disciplinary proceedings initiated against the petitioner by the respondents, seven charges were framed against him. The enquiry officer appointed by the respondents, in his enquiry report, held that out of seven charges, only two charges, namely (a) the petitioner did not wear his uniform on the specified date and (b) the petitioner was found sleeping on the specified date, were approved and the petitioner was held



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guilty only in respect of those charges and in respect of other remaining charges, he was found innocent.

3. Based on the enquiry report submitted by the enquiry officer, the second respondent, through his proceedings dated 13.01.2016 terminated the services of the petitioner. However, in the revision filed by the petitioner, the first respondent, under the impugned order dated 30.05.2017 set aside the punishment order imposed by the second respondent under order dated 13.01.2016 and modified the punishment by treating the period of suspension as his punishment, instead of the termination order issued by the second respondent under his proceedings dated 13.01.2016. Aggrieved by the modified punishment imposed by the first respondent under the impugned order dated 30.05.2017, the petitioner has filed this writ petition.

4. A counter affidavit has been filed by the respondents reiterating that the petitioner is not entitled for any further reduction of punishment and that only based on the enquiry report, the petitioner has been punished.



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5. Admittedly, the petitioner was working as an Office Assistant in the respondent department and had also participated in the enquiry proceedings, in which witnesses were examined before the enquiry officer and the petitioner was also allowed to cross-examine the said witnesses. As seen from the enquiry report, there is no violation of principles of natural justice. Only based on the evidence available on record, the enquiry officer had found two of the charges proved against the petitioner. The charges proved against the petitioner are as follows:-

(a) On the specified date mentioned in the charge, the petitioner did not wear uniform; and

(b) On the specified date, the petitioner was found sleeping.

6. The charges framed against the petitioner are supported by the statements made by the witnesses, who were examined before the enquiry officer and the petitioner had also cross-examined them. Even though seven charges were framed against the petitioner in the disciplinary proceedings, the enquiry officer, based on the evidence available on record, had come to the conclusion that the petitioner is guilty of the aforementioned two charges. Based on the enquiry report,



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the second respondent, in his proceedings dated 13.01.2016 had imposed the punishment of termination of service against the petitioner, which is disproportionate to the charges proved against the petitioner by the enquiry officer.

7. Rightly, the petitioner had filed a revision aggrieved by the proceedings of the second respondent dated 13.01.2016 before the first respondent. Since the punishment of termination of service imposed against the petitioner is disproportionate to the charges proved against the petitioner in the enquiry proceedings, the first respondent has rightly set aside the proceedings of the second respondent dated 13.01.2016 terminating the services of the petitioner and modified the punishment by treating the period of suspension as his punishment in respect of the charges, which have been proved against the petitioner in the enquiry proceedings, namely (a) he did not wear uniform on the specified date and (b) he was found sleeping on the specified date. Not satisfied with the reduction of punishment by the first respondent under the impugned order dated 30.05.2017, the petitioner has filed this writ petition seeking to set aside the impugned order dated 30.05.2017 passed by the first respondent as well.



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8. This Court is of the considered view that only after giving due consideration to the enquiry report submitted by the enquiry officer and only based on the evidence available on record before the enquiry officer, which includes the deposition of witnesses on the petitioner's side as well as the prosecution side, the enquiry officer had come to the conclusion that out of the seven charges framed against the petitioner, two charges as stated supra have been proved against the petitioner and the petitioner was held guilty of the same.

9. However, the second respondent, by his proceedings dated 13.01.2016 had imposed the punishment of terminating the petitioner from service, which was rightly held to be disproportionate under the impugned order passed by the first respondent dated 30.05.2017 and the first respondent has therefore rightly set aside the proceedings of the second respondent dated 13.01.2016 and modified the punishment imposed on the petitioner by treating the period of his suspension as his punishment instead of terminating him from service.



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10. When there is evidence placed on record before the enquiry officer to prove that the petitioner is guilty of the two charges as held by the enquiry officer, this Court cannot re-appreciate the evidence in a writ petition filed under Article 226 of the Constitution of India. There is basis for the first respondent for passing the impugned order dated 30.05.2017, as the punishment imposed on the petitioner is only due to the fact that there is evidence to show that the petitioner is guilty of the two charges, namely (a) on the specified date, he did not wear uniform and (b) on the specified date, he was found sleeping.

11. For the foregoing reasons, this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
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ABDUL QUDDHOSE, J.

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TO:

- 1.The Joint Registrar of Co-Operative Societies,
Tirunelveli.
- 2.The Managing Director,
Palayamkottai Co-Operative Urban Bank,
Palayamkottai, Tirunelveli District.

Order made in
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Dated:
01.10.2024