



W.A.No.824 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 22.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.No.824 of 2023

R.Jayaseelan,
Son of M.D.Rajamanickam,
Veppillai Muthampatty & Post,
Bommidi Via, Dharmapuri District.

... Appellant

Vs.

1. The Joint Registrar of Co-Op Societies,
Dharmapuri Region, Dharmapuri.
2. The Special Officer,
D.D.92, Chikkampatty Primary Agricultural,
Co-operative Credit Society Ltd.,
Veppillai Muthampatty & Post,
Bommidi Via, Dharmapuri District.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.4751 of 2011 dated 31.10.2022.



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For Appellant : Mr. M.Thirumoorthy

For Respondents : Mr. B.TamilNidhi
Additional Government Pleader

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

This Writ appeal is directed against the order dated 31.10.2022 passed by the learned Single Judge in W.P.No.4751 of 2011, whereby the dismissal of the appellant from service was confirmed.

2.The facts of the case is that the appellant was originally appointed as Secretary in Nallaralapalli Primary Agricultural Co-operative Society in the year 1990 and was subsequently transferred to the second respondent Society in 1991. He continued in service until 1999, when, by a resolution passed by the elected President of the Society, he was relieved from the post of Secretary and transferred back. Aggrieved by the transfer, the appellant approached this Court, and though initially not permitted to rejoin, he was ultimately reinstated in service after the supersession of the elected body by the appointment of a Special Officer. Subsequently, the appellant sought regularization of the period from 1999 to 2004,

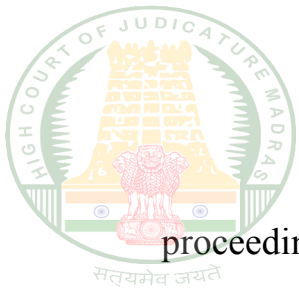


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which was partially allowed by this Court by directing payment of 50% of back wages.

3. Thereafter, disciplinary proceedings were initiated against him. A charge memo dated 11.01.2010 was issued, alleging acts of dereliction of duty, including disbursal of loans contrary to the bye-laws, non-deposit of fertilizer sale proceeds, and failure to obtain signatures for jewel loan transactions. After an enquiry, the appellant was dismissed from service. His appeal to the higher authority was also rejected. Challenging the dismissal, the appellant filed W.P.No.4751 of 2011, which came to be dismissed by the learned Single Judge, leading to this writ appeal.

4. The learned Counsel for the appellant submitted that the appellant merely acted in accordance with the instructions of the elected Board while disbursing loans and had no independent authority to sanction loans. Further, it is submitted that there was no financial loss to the Society since the loans were repaid and the charge of misappropriation was not substantiated with evidence. Further, non-payment of subsistence allowance during suspension vitiated the disciplinary



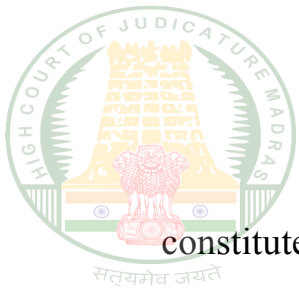
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proceedings. Hence, it is submitted that the punishment of dismissal was grossly disproportionate to the alleged misconduct and sought for allowing the appeal.

6.The learned counsel for the respondents submitted that the appellant had disbursed loans in violation of the Society's bye-laws, including sanctioning loans to his own family members. Further, it is submitted that unauthorized disbursal of loans itself constituted serious misconduct irrespective of whether the amounts were later recovered. It is also submitted that the charges were duly proved in an enquiry conducted following the principles of natural justice and no procedural violation was demonstrated.

7.Heard the parties and perused the materials available on record.

8.Upon a careful consideration of the materials and rival submissions, this Court finds that the fact of disbursal of loans contrary to the bye-laws stands established. The appellant has not denied that loans were given to persons including family members in breach of the Society's rules. In disciplinary jurisprudence, unauthorized acts contrary to governing rules and bye-laws

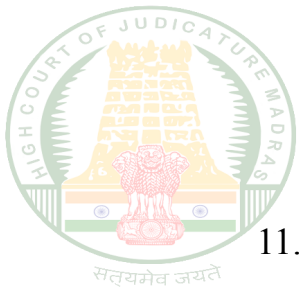


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constitute misconduct even if actual monetary loss is absent. Merely contending that the Society eventually recovered the loan amounts does not mitigate the unauthorized nature of the action.

9.The enquiry proceedings reveal that the appellant was afforded reasonable opportunity and no serious violation of natural justice principles is shown. Hence, the finding of misconduct cannot be interefered with. However, in the peculiar facts and circumstances of the case, where no substantial financial loss was caused to the Society and where there appears to have been contributory lapses at multiple levels including the elected Board, this Court is of the view that the punishment of dismissal from service is harsh and disproportionate.

10.In such circumstances, it would meet the ends of justice if the punishment of dismissal is modified to one of compulsory retirement, thereby allowing the appellant to retain the services benefits lawfully accruing to him under the bye-laws.



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11. Accordingly, this Writ appeal is partly allowed. The order of dismissal passed against the appellant is modified to one of compulsory retirement. The appellant shall be entitled to receive all terminal and retiral benefits due to him as per the applicable bye-laws, which shall be calculated and paid within a period of three months from the date of receipt of a copy of this Judgment. There shall be no order as to costs. Connected miscellaneous petitions, if any, shall stand closed.

(R.S.K., J) (A.D.M.C., J)

22.04.2025

ay

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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