



W.P.No.9364 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM:

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

W.P.No.9364 of 2015

Judgment reserved on 25.04.2025	Judgment pronounced on 02.06.2025
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P.Murugesan

...Petitioner

.....Vs.....

1. The Joint Registrar of Co-operative Societies, Dharmapuri Division, Dharmapuri.

2. S.1032 Veerappanayakkanpatti Primary Agricultural Co-opeartive Credit Society Ltd.,
Represented by its Special Officer,
Veerappanayakkanpatti Village,
Harur Taluk, Dharmapuri District.

.....Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records of the 1st respondent pertaining to order issued in Na.Ka.No.3652 of 2012/sa.pa dated 29.09.2013 and the order of the second respondent dated 31.03.2012 and quash the same and consequently direct the second respondent herein to reinstate the petitioner into service with all back wages, continuity in service.



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For Petitioner : Mr.Ma.P.Thangavel
For R1 : Mr.B.Tamilnidhi,
Additional Government Pleader
For R2 : Mr.M.Thirumoorthy
For Mr.L.P.Shanmuga Sundaram

ORDER

This writ petition has been filed to call for the records of the first respondent pertaining to the order issued in Na.Ka.No.3652 of 2012/sa.pa dated 29.09.2013 and the order of the second respondent dated 31.03.2012, and to quash the same, and consequently, to direct the second respondent herein to reinstate the petitioner into service with all back wages and continuity of service.

2. The brief facts leading to the filing of the above case are as follows:

(i) The petitioner joined as a Salesman in the second respondent society on 09.04.1994. The second respondent was entrusted with the public distribution sales for the Gudalur and Gopalapatti shops. During this period, on 14.10.2011, the Secretary of the second respondent society inspected both shops and found a stock deficit, as well as non-remittance of sales proceeds to the society, resulting in a loss of Rs.27,239.15/-. Consequently, the then



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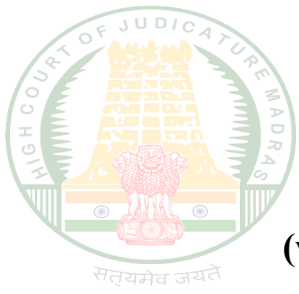
Special Officer of the society suspended the petitioner on 14.10.2011.

Thereafter, the second respondent society issued a charge memo containing three charges to the petitioner on 29.10.2011, seeking his explanation. .

(ii) The second respondent appointed a Domestic Enquiry Officer on 24.12.2011. By this order, Mr. N.V. Anandan, Advocate, was appointed as the Enquiry Officer to enquire into the charges against the petitioner. Thereafter, the aforementioned charge memo was received by the petitioner in person on 11.01.2012.

(iii) On 28.01.2012, the Enquiry Officer explained the charges, and the delinquent admitted to the charges and acknowledged having misappropriated funds to the tune of Rs.27,239.15/-, further promising to repay the amount within 10 days.

(iv) During the enquiry, Exhibits A1 to A19 were marked. The Enquiry Officer asked the petitioner whether he wished to cross-examine the management's witness, to which the petitioner responded that he had already admitted all the charges and therefore did not wish to conduct any cross-examination.



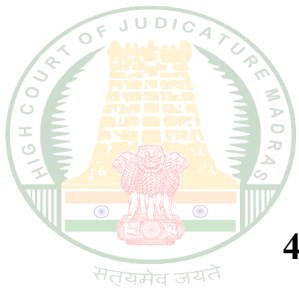
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(v) Further, the Enquiry Officer asked the petitioner whether he wished

to examine any witnesses on his behalf. However, the petitioner reiterated that he had admitted all the charges, promised to repay the said amount within a period of 10 days, and requested to be relieved from all charges and to be pardoned in the disciplinary proceedings. On behalf of the Management, no cross-examination was conducted, as the petitioner had already admitted the misappropriation and agreed to repay the amount. Finally, the petitioner made an endorsement before the Enquiry Officer, stating as follows:

“I am fully satisfied with the enquiry, which was conducted in a free and fair manner without any flaws.”

3. The Enquiry Officer submitted his report to the second respondent-society on 31.01.2012. A second show-cause notice, along with the charge memo, was issued to the petitioner on 09.02.2012, which was received by the petitioner on 13.02.2012. Based on the enquiry report and the materials and exhibits submitted during the enquiry, the petitioner was dismissed from service on 31.03.2012. Aggrieved by the dismissal order, the petitioner filed a revision petition before the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. The first respondent, after due enquiry, dismissed the revision petition on 27.09.2013.

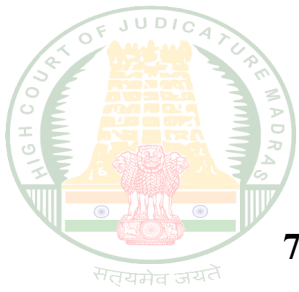


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4. It is pertinent to state that the Enquiry Officer was appointed on 24.12.2011. By this order, Advocate Mr. M.V. Anandan was appointed as the Enquiry Officer to enquire into the charges against the petitioner. However, the charge memo was served on the petitioner only on 11.01.2012, i.e., after the appointment of the Enquiry Officer.

5. During the enquiry, the petitioner admitted the charges and committed to repay the amount. After the conclusion of the enquiry, the amount was paid on 14.11.2012.

6. During the hearing, the learned counsel for the petitioner submitted that the enquiry was not conducted in a fair manner. It was further argued that the petitioner was promised a lenient punishment, and based on that assurance, he did not actively participate in the enquiry. Additionally, it was submitted that the amount in question has already been deposited, and the petitioner has only nine years of service remaining. Therefore, considering the 10-year period during which the case has been pending, the petitioner is not pressing for any service or monetary benefits, either past or future, including pension. He requests that the said period be treated as punishment.



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7. The learned Government Advocate, based on the counter filed by the second respondent, stated that the petitioner had indeed committed the misconduct. The enquiry was conducted by the Domestic Enquiry Officer, Advocate Mr. N.V. Anandan. The enquiry was completed, and copies of the report were provided. During the enquiry, management witnesses were examined; however, there was no cross-examination by the delinquent officer. It is therefore submitted that the enquiry was conducted fairly. The absence of cross-examination of the management witnesses has also been duly noted in relation to the quantum of punishment.

8. Upon reviewing the proceedings, I find that the Enquiry Officer was appointed on 24.12.2011. In other words, the Enquiry Officer was appointed by the second respondent-society well before the charge memo was served upon the petitioner, which was only done on 11.01.2012. Since the petitioner admitted the charge and also paid the amount after the enquiry, it is important to consider these factors in evaluating the proceedings.

9. The case has now been pending for more than 10 years.



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WEB COPY 10. At this juncture, Mr.Ma.P.Thangavel, learned counsel for the petitioner, has filed an additional affidavit on behalf of the petitioner, wherein he has forgone any monetary and service benefits. The petitioner has expressed his willingness to repay and waived continuity of service, notional promotion, and pension benefits. His affidavit is taken on record, and the same is hereby recorded.

11. Considering the additional facts and the affidavit filed, in the interest of justice, I find that since the charges have been admitted by the petitioner, and given that he has been out of employment for 10 years, which is disproportionate to the charges, this Writ Petition is allowed. The order of dismissal from service passed on 31.03.2012 is hereby set aside. As per the affidavit filed by the petitioner, the petitioner is not entitled to any service benefits from 01.04.2012 to 30.06.2025. The respondents shall reinstate the petitioner into service. For the period covered between the above-mentioned dates, the petitioner shall not be entitled to any monetary service benefits or pensionary benefits. However, as far as service is concerned, the petitioner



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may be considered for other benefits as per service law.

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12. With these observations, this *Writ Petition is partly allowed* to the limited extent indicated above. No costs.

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Index : Yes / No

Neutral Citation : Yes/No

To

1. The Joint Registrar of Co-operative Societies, Dharmapuri Division, Dharmapuri.
2. S.1032 Veerappanayakkanpatti Primary Agricultural Co-opertive Credit Society Ltd., Represented by its Special Officer, Veerappanayakkanpatti Village, Harur Taluk, Dharmapuri District.



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