



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.10.2025

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PRONOUNCED ON : 10.10.2025

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

WP No. 16312 of 2019

C.A. Rajendran
S/o.A.C.Ajja Gowder
5/336, Aravenu-643 201,
Kothagiri,
Nilgiri District

Petitioner(s)

Vs

1. Joint Registrar of Co-operative
Societies,
Nilgiri Region,
Ootagamund.
2. Aravenu Primary Agriculture Co-operative
Credit Society No.J.321,
Aravenu, Kothagiri,
Nilgiri District 643 201.
rep. By its President

Respondent(s)

PRAYER:

Writ Petition filed under Art. 226 of the Constitution of India praying for issuance of Certiorarified Mandamus to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent and on the file of the 2nd



respondent and quash the 1st respondent's order in Revision No.03/2017 (Na.Ka.4761/2017/A1) dated 30.11.2018 signed on 30.10.2018 as well as the consequential Indemnity Bond obtained by the 2nd respondent, pursuant thereto, as illegal and void and consequently direct the respondents to calculate and pay 100% back-wages with all attendant benefits for the period from 01.04.2006 to 31.08.2011, by treating the suspension period as spent on duty in accordance with law.

For Petitioner(s) : Mr. R. Jayaram

For Respondent(s): Mr. S.Ravikumar,
Spl. Govt. Pleader for R1
Mr. R. Bala Ramesh for R2

ORDER

Heard Mr.R. Jayaram, learned counsel for the petitioner, Mr.S.Ravikumar, learned Special Govt. Pleader for the 1st respondent and Mr.R.Bala Ramesh, learned counsel for the 2nd respondent.

2. The case of the petitioner in brief is that he was dismissed from service of the 2nd respondent under proceedings dated 01.04.2006 after being issued with charge memo dated 26.04.2005 and a domestic enquiry held on 28.12.2005; that the 2nd respondent while issuing charge memo and initiating disciplinary action, had simultaneously initiated criminal proceeding in respect of the same violation/action; that criminal proceedings initiated against the



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petitioner resulted in acquittal vide order passed in C.C.No.4 of 2015, dated 09.11.2016; that on the petitioner being acquitted in criminal proceedings, had made an application seeking revision of the order of dismissal dated 01.04.2006; that on the said revision not being considered had approached this Court by filing a Writ Petition vide W.P.No.15182 of 2018; that this Court by an order dated 06.08.2018, directed the 1st respondent to dispose of the aforesaid revision application within a period of six weeks; and that the 1st respondent in compliance to the order of this Court had disposed of the revision vide order dated 30.11.2018, whereby, the punishment awarded vide order dated 01.04.2006 was modified.

3. It is the further case of the petitioner that the 1st respondent vide order dated 30.11.2018 instead of ordering reinstatement of petitioner as per section 77(4) of the Tamil Nadu Cooperative Societies Act, 1983, (hereinafter referred to as 'Act') had directed the payment of compensation of Rs.75,000/- in addition to payment of employees provident fund, gratuity and other connected financial benefits; and that the said order of the 1st respondent directing payment



of compensation is illegal and liable to be quashed and petitioner is to be reinstated into service with attendant benefits being granted.

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4. In support of the aforesaid submission, reliance is placed on the decision in the case of *Captain M. Paul Antony Vs. Bharat Gold Mines Ltd and another* reported in *1999 (11) CTC 579*.

5. *Per contra*, the learned counsel appearing on behalf of the 2nd respondent submitted, that the 2nd petitioner is a Cooperative Society formed for the benefit of its members; that the petitioner while working as an Assistant Secretary, had resorted to financial misappropriation by accepting fake/faux gold for granting of loans; that the 2nd respondent on noticing the financial irregularities by issuing charge memo and conducting enquiry by following the procedure i.e., by appointing an enquiry officer, and based on the enquiry report dated 28.12.2005, issued show cause notice dated 01.03.2006 and after considering the explanation submitted by the petitioner dated 15.03.2006 passed the impugned proceedings dated 01.04.2006 dismissing the petitioner



from the services of the 2nd respondent.

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6. On behalf of the 2nd respondent, it is further contended that since the petitioner by his act of accepting fake/ faux gold for providing loans, not only caused loss to the 2nd respondent, but also having involved himself in cheating the 2nd respondent, the 2nd respondent initiated criminal action by lodging a complaint, based on which, criminal action has been initiated separately.

7. On behalf of the 2nd respondent, it is also contended that having regard to the conduct of the petitioner in accepting fake/faux gold for advancing loans, the 2nd respondent considered continuation of the petitioner in service would be detrimental to the interest of the 2nd respondent and accordingly, dismissed the petitioner from service by following the procedure prescribed.

8. On behalf of the 2nd respondent, it is also contended that the petitioner on being served with the order of dismissal did not take any steps to assail the same and on the other hand, allowed the order to attain finality.



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9. The 2nd respondent further contended that the petitioner, on being acquitted in the criminal case, had sought for revision of the order issued dismissing him from service after 11 years, by approaching the 1st respondent authority under section 153 of the Act; and that the 1st respondent taking note of the gravity of the charge against the petitioner and also having regard to the decision of the Labour Court, Covai dated 01.09.2016 delivered in case filed by one Thiru Krishnan, employee of the Society for the same irregularity, had concluded that instead of reinstating the petitioner into service with attendant benefits and backwages, compensation of Rs.75,000/- is to be paid apart from being granted with the benefits such as Employees Provident Fund, Gratuity and other connected financial benefits.

10. On behalf of the 2nd respondent, it is contended that if at all anybody is to be considered as aggrieved by the said order of the 1st respondent, it should be the 2nd respondent, which ought to have assailed the order of the 1st respondent for entertaining Revision after 11 years.



11. It is submitted by the 2nd respondent that however, in order to give quietus to the matter, the 2nd respondent made payment to the petitioner as directed in the impugned order passed by the 1st respondent by taking indemnity bond.

12. In so far as the reliance placed on the decision of the Apex Court, it is contended that the aforesaid decision is clearly distinguishable on facts, as the petitioner in the said case was involved in an offence under section 302 IPC, which is not connected with the working with the respondent therein, while in the facts of the present case, the petitioner by his acts had tried to cause loss to the society by providing loans by accepting fake/faux gold.

13. I have taken note of the respective contentions.

14. At the outset, it is to be noted that the 2nd respondent is a Cooperative Society of members formed for the benefit of its members who are primarily agriculturists; and that the petitioner at the relevant point of time, was working



as Assistant Secretary after joining the 2nd respondent as Assistant in the year December 1974.

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15. The petitioner taking advantage of his long service and the trust reposed by the 2nd respondent sought to take advantage of the same by accepting fake/faux gold to advance loans there against. If only the said act of the petitioner went unnoticed, the loans advanced against such fake/faux gold mortgaged would have become bad debt due to non repayment, thereby causing not only loss to the Society, but also affecting existence of the Society itself. It is to be noted that in case of establishments/institutions like Banks, Cooperative Societies, regardless of the amount, any act of the present nature as resorted to by an employee is considered as a grave offence that destroys the confidence of an employer more particularly, in institutions like Cooperative Societies that manage public/members funds.

16. Though on behalf of the petitioner, it is contended that since, he was acquitted in the criminal case lodged against him, the respondents ought to have



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reinstated him in to service, it is settled position of law that in a departmental enquiry what is required to be established is 'preponderance of probabilities', while in a criminal proceedings, it is 'beyond reasonable doubt'. Thus, the acquittal in criminal proceedings would not automatically entitle him to be reinstated into service, if the departmental enquiry initiated is in connection with discharge of duties by the the employee. In the facts of the present case, since, the disciplinary action has been initiated against the petitioner for misappropriation, the said proceedings are independent of the criminal action and as such, it is for the disciplinary authority to take action and impose penalty/punishment having regard to the nature of misconduct or gravity of the violation or offence committed.

17. It is also settled position of law since, the disciplinary authority is the best authority to consider all the attendant circumstances while awarding punishment, courts should not normally substitute its view with that of the disciplinary authority, unless it shocks the conscious of the Court.



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18. In the facts of the present case, the disciplinary authority having regard to the nature of violation committed by the petitioner visited the petitioner with the order of dismissal from service and the said order having been found not to be disturbed by the Revisional Authority in an application filed by the petitioner under section 153 of the Act, except to the extent of modification indicated therein, this court is of the view that the petitioner cannot claim that the 1st respondent authority having failed to exercise jurisdiction conferred on him properly, for this court to quash the said order.

19. In similar circumstances, a Coordinate Bench of this Court in W.P.No.29943 of 2014, by order dated 29.07.2022, has held as under;

'13. This court is of the considered opinion that mere acquittal in a criminal case or exoneration from the surcharge proceedings, would not be a ground to drop the departmental disciplinary proceedings or to set aside the punishment imposed in the departmental disciplinary proceedings. The standard of proof required under the Criminal Law and under the Co-operative Societies Act, are distinct and different. A strict proof is required to convict a person under the Criminal Court of Law. However, no such strict proof is required to impose punishment under the departmental disciplinary proceedings. Preponderance of probabilities are sufficient to punish an employee under the Discipline and Appeal Rules.



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Certain technical grounds in the process may result in exoneration from the surcharge proceedings or acquittal in a criminal case on benefit of doubt. However, those grounds cannot be applied in respect of the departmental disciplinary proceedings, which was conducted independently by following the procedures as contemplated by the Disciplinary Authority.

14. In the present case, the Disciplinary Authority independently conducted the enquiry, which cannot be compared with the trial to be conducted by the Criminal Court of Law or the suit to be conducted by the Competent Forum under the Tamil Nadu Co-operative Societies Act, in Surcharge proceedings. When the Departmental Disciplinary Authority has independently conducted an enquiry by affording opportunity to the charged official and every documents and evidences are considered by the Enquiry Officer and based on such enquiry report, the penalty of dismissal from service was imposed. Such an independent enquiry conducted in departmental disciplinary proceedings, cannot be compared with other trial nature proceedings, wherein strict proof is required. Thus, acquittal in a criminal case or dropping of surcharge proceedings, based on judicial order or based on certain procedural violations, cannot be compared with the departmental disciplinary proceedings as it was conducted independently and the punishment of dismissal from service was issued based on the proved misconduct or misappropriation or violations.'

20. In view of the aforesaid discussion also the decision of the Coordinate Bench of this Court in the case cited supra, this Court is of the view that the order of the 1st respondent directing payment of compensation in



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addition to payment of Employees Provident Fund, Gratuity and other connected financial benefits to the petitioner without being reinstated into service with attendant benefits does not call for any interference.

21. Accordingly, the writ petition fails and is dismissed. No costs.

msr

10.10.2025

Index: yes/no

Internet:yes/no

speaking order/non speaking order



neutral citation:yes/no

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To

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T. VINOD KUMAR, J.

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Pre-delivery order made in

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