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W.P.No.40932 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2025

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THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.40932 of 2016

Mr.R.Mani
S/o.S.Ramalingam

... Petitioner

vs.

1. The Secretary
Cooperation
Food and Consumer Protection Department
Secretariat Building
Chennai.
2. The Additional Registrar of Cooperative Societies
The Chennai Region
91, St.Marrys Road
Chennai-600 018.
3. The Special Officer
Chennai Central Co-operative Bank
No.215, Prakasam Salai
Chennai-600 108.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the impugned proceedings of the 1st respondent under G.O.No.117 dated 10.07.2013 and quash the same as null and void and against the basic

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principles of natural justice and consequently, direct the respondents herein to pay all the backwages with effect from 26.10.2006 till the date of the petitioner's superannuation dated 30.06.2012.

For Petitioner : Mr.B.Arvind Srevatsa
for Mr.A.Athimoolam
For Respondents : Mr.K.Tamilvendan,
Government Advocate, for R1 & R2
Mr.P.Bala Ramesh, for R3

ORDER

The challenge in this writ petition is to the order dated 16.12.2008 bearing Reference No.4130/06/2008/A1 passed by the third respondent, the order dated 26.02.2010 bearing Reference No.450/2009/C2 passed by the second respondent – the Revisional Authority under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, and G.O.Ms.No.117, Cooperation, Food and Consumer Protection (CP1) Department, dated 10.07.2013 passed by the first respondent. By the order dated 16.12.2008, the petitioner was dismissed from service on account of the proved charges, which was subsequently confirmed by the Appellate Authority as well as the Revisional Authority.



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2. The petitioner, while working as an Assistant in the Anna Salai Branch of the Central Cooperative Bank, Chennai, was issued with a charge memo. The charge memo dated 20.07.2007 framed against the petitioner reads as follows:

“Charge No.1: Thiru M.R. Mani, formerly Assistant, Anna Salai Branch, failed in his duty to timely reconcile the books of accounts of the Anna Salai Branch. On 30.05.2006, a salary amount of Rs.7,077/- was wrongly credited as Rs.7,707/-, resulting in an excess credit of Rs.630/-.

Charge No.2: The signatures of Syed Siraj and Syed Salim were forged by P. Shanmugavel, Branch Manager (In-charge), and a sum of Rs.70,000/- was misappropriated along with A. Rangarajan and M.R. Mani, Assistants of the Anna Salai Branch. Thus, Thiru A. Rangarajan and M.R. Mani, Assistants, colluded with the Branch Manager (In-charge) in the commission of misappropriation of funds of the Bank.

Charge No.3: Thiru M.R. Mani, Assistant, failed in his duty to return the clearing cheque for Rs.45,533/- belonging to P. Shanmugavel, Branch Manager (In-charge), received through the clearing house on 27.04.2006, even though



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there was only a balance of Rs.1,573.80 in SB Account No.3627 of P. Shanmugavel. The said cheque was retained by the Branch Manager and was entered in the day book and Special Cash Book. Bogus entries were made in the cash book and day book as follows

<i>Date</i>	<i>Credit</i>	<i>Debit</i>
28.04.2006	Rs.86,809/-	Rs.1,72,669/-”

3. The explanation submitted by the petitioner was found to be unsatisfactory and, therefore, a departmental enquiry was initiated. Before the Enquiry Officer, the Presenting Officer examined himself, and the petitioner also filed a defence statement, and his statement was recorded by the Enquiry Officer. Thereafter, the Enquiry Officer submitted a report holding that the charges against the petitioner stood proved. The third respondent issued a second show cause notice calling upon the petitioner to explain as to why the Enquiry Report should not be accepted and why appropriate punishment should not be imposed. The petitioner submitted his explanation denying the charges. Consequently, the third respondent, after



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considering the Enquiry Report as well as the petitioner's explanation, passed an order dismissing the petitioner from service. The said order of dismissal was confirmed by the Appellate Authority as well as the Revisional Authority. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Mr. B. Arvind Srevatsa, learned counsel representing Mr. A. Aathimoolam, learned counsel on record for the petitioner, submitted that, in respect of Charge No.1, the petitioner had given a defence statement stating that it was a clerical mistake and not a case of misappropriation. He further submitted that Charge Nos.2 and 3 were not proved and that the sum and substance of the allegations is that the petitioner had allegedly connived with other officials and misappropriated monies. In the absence of any cogent evidence to substantiate the said allegation, the finding recorded by the Enquiry Officer is contrary to the evidence on record. Therefore, he submitted that the impugned order passed by the third respondent, without properly considering the petitioner's explanation, is arbitrary and



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discriminatory and warrants interference.

5. In response, Mr. K. Tamilvendan, learned Government Advocate appearing for respondents 1 and 2 and Learned Counsel for Respondent No.3, submitted that the materials placed before the Enquiry Officer, as well as the statement of the Presenting Officer, clearly establish that the petitioner had misappropriated monies belonging to the Society. In the absence of any perversity or arbitrariness in the findings recorded by the Enquiry Officer, the impugned order passed by the third respondent dismissing the petitioner from service cannot be faulted. Therefore, the writ petition is liable to be dismissed.

6. The arguments of the learned counsel for the parties and the materials placed on record have been duly considered.

7. The petitioner's explanation in respect of Charge No.1 is that he was utilised by the Branch Manager for other works and that he did not function as a clerk in the Savings Account Section. He further pleaded that a single staff member had to attend to multiple duties; that the cash book was



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not written contemporaneously; and that, therefore, there was some backlog in the reconciliation of accounts. He asserted that the entry of Rs.7,707/- instead of Rs.7,077/- was a clerical mistake made on account of pressure of work. To this extent, Charge No.1 against the petitioner stands proved, since the petitioner has categorically admitted that the mistake was clerical in nature. However, the said charge does not attribute any deliberate or intentional act on the part of the petitioner in making a wrong entry with a view to securing unlawful gain.

8. In respect of Charge No.2, namely that the signatures of Syed Shiraj and Syed Salim were forged by P. Shanmugavel, Branch Manager In-charge, and that a sum of Rs.70,000/- was misappropriated along with A. Rangarajan and M.R. Mani, Assistant (the petitioner herein), the specific allegation is that the petitioner colluded with the Branch Manager in connection with the misappropriation of funds.

9. In his defence statement, the petitioner stated that the forgery was committed by the said Shanmugavel and that there is no evidence to



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establish that the petitioner connived with him in forging the signatures. The Enquiry Officer recorded a finding that, at least in his capacity as the clerk maintaining the ledger or as the cashier, the charge-sheeted employee, namely the petitioner, ought to have had knowledge of the falsification of accounts and the siphoning of funds of the Bank. Except for this inference drawn by the Enquiry Officer, there is no material to substantiate the allegation that the petitioner connived with the Branch Manager in forging the signatures. Therefore, in the absence of any evidence, much less cogent evidence, the findings recorded by the Enquiry Officer holding Charge No.2 as proved are without any factual or legal basis.

10. In respect of Charge No.3, the specific allegation is that the petitioner failed to return the cheque for Rs.45,533/- when the balance in the savings bank account was only Rs.1,573.80 as on the date of presentation of the cheque, and that bogus entries were made in the cash book. In his evidence, the petitioner stated that the Presenting Officer had not adduced any evidence to show that the connected entries were made by him. The



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Enquiry Officer recorded a finding that the petitioner was not directly involved in the said act; however, according to the Enquiry Officer, due to the malfeasance committed by the said Shanmugavel and the non-feasance of the petitioner, the misappropriation of funds occurred in the branch and continued unabated. To this limited extent, the allegation was held to be proved. However, before the Enquiry Officer, there was no evidence whatsoever to substantiate that the petitioner failed to return the cheque for Rs.45,533/-, particularly in view of the admitted fact that the petitioner was not working either in the Cheque Clearing Section or in the Savings Account Section.

11. The petitioner responded to the second show cause notice denying the charges and submitted a detailed explanation. However, the third respondent merely recorded the allegations against the petitioner and the findings of the Enquiry Officer, without specifically discussing the petitioner's explanation or assigning any reasons for rejecting the same. Therefore, the impugned order passed by the third respondent, insofar as



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Charge Nos. 2 and 3 are concerned, despite that there is no evidence to substantiate the allegation of collision is not a speaking order and is vitiated for violation of the principles of natural justice.

12. It is a settled principle of law that punishment in a departmental enquiry can be sustained only when the foundational requirements of a valid charge memo, adherence to principles of natural justice, proof of charges by legally acceptable evidence, independent application of mind by the disciplinary party are strictly complied with,. Any infraction of these essential elements vitiates the entire disciplinary proceedings and renders the order of punishment liable to be quashed.

13. However, in respect of Charge No.1, the petitioner has admitted that the wrong entry was on account of clerical mistake..As observed in the preceding para , charge No.1 does not attribute any deliberate or intentional act on the part of the petitioner in making a wrong entry with a view to securing unlawful gain. Charge No.1 relates to the alleged wrong entry for a sum of Rs.630/-. It is also on record that the amount of Rs.630/-, as



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admitted by the Presenting Officer during cross-examination before the Enquiry Officer, was adjusted in the salary account of the petitioner on 07.10.2007. Therefore, the penalty of removal from service is not justified.

14. The Revisional Authority as well as the Appellate Authority, without considering these aspects in proper perspective, have mechanically affirmed the order of the third respondent and, therefore, their orders are also not legally sustainable.

15. The learned counsel expressed the inability of Respondent No.3—Society to pay salary for the period of non-employment on account of financial constraints. In light of the same, the petitioner is not entitled to salary for the period of non-employment, applying the principle of ‘no work, no pay.’

16. Accordingly, the captioned Writ Petition is allowed. The order dated 16.12.2008 bearing reference No.4130/06/2008/A1 passed by the third respondent, the order dated 26.02.2010 bearing reference



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No.450/2009/C2 passed by the second respondent – Revisional Authority, and G.O.Ms.No.117, Cooperation, Food and Consumer Protection (CP1) Department dated 10.07.2013 passed by the first respondent are hereby set aside.

17. Since the petitioner has retired from service on attaining the age of superannuation on 30.06.2012, the question of reinstatement and payment of back salary does not arise applying the principle ‘No Pay No work’ . However, the petitioner is entitled to retirement benefits flowing from this order. The retirement benefits shall be calculated and disbursed to the petitioner within a period of three months from the date of receipt of a copy of this order. In the event of default, the respondents shall pay interest at the rate of 6% per annum on the said amount from the date of default till the date of actual payment. There shall be no order as to costs.

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HEMANT CHANDANGOUDAR, J.,

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