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W.P.No.27406 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.No.27406 of 2014
and M.P.Nos.1 & 2 of 2014**

K.Ramu Naidu

...Petitioner

Versus

- 1.The State of Tamil Nadu rep. by
The Principal Secretary to Government,
Co-operative Food and
Consumer Protection (CD 1) Department,
Secretariat, Chennai – 9.
- 2.Registrar of Co-operative Societies,
Kilpauk, Chennai.
- 3.Joint Registrar of Co-operative Societies,
Salem Circle, Salem.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of certiorari to call for the records on the file
of the first respondent in connection with the order passed by him in
G.O.(3D)No.10 dated 01.09.2014 and quash the same.

For Petitioner	:	Mr.R.Singaravelan, Senior Counsel for Ms.M.Srividhya
For Respondents	:	Mr.B.Tamilnidhi, Additional Government Pleader



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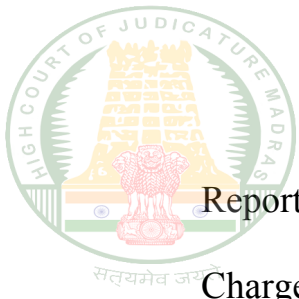
ORDER

In this Writ Petition, the Petitioner has challenged the Order in G.O.(3D)No.10 dated 01.09.2014 (hereinafter referred to as “Impugned Order”) passed by the 1st Respondent.

2. The brief facts of the case are that the Petitioner was working as a Deputy Registrar of Co-operative Societies and retired from service on 30.09.1994. After his retirement, the Petitioner was issued with a Charge Memo dated 28.04.1998. The charges levelled against the Petitioner vide Charge Memo dated 28.04.1998 reads as under:

“That while you have been working as Special Officer, Rasipuram Agricultural Producers Co-operative Marketing Society Limited (RAPCMS), Rasipuram upto 30.09.1994. You have knowingly falsified the records of the RAPCMS, Rasipuram during the year 1994 in respect of supply of steel bureaus each of size of 5½ in height fitted with glass in the upper half to various village fair price shops in Rasipuram and made exorbitant payment to wards the costs of bureaus and thereby abetted with some of the private individuals to derive pecuniary gain and caused loss to an extent of Rs.1,73,855/- to the institution.”

3. In response to the aforesaid Charge Memo, the Petitioner sent his Explanation on 13.09.1999 denying the allegations levelled against him. Thereafter, an Enquiry Officer was appointed and enquiry was conducted. After the completion of enquiry, the Enquiry Officer filed the Enquiry



Report stating that the allegations levelled against the Petitioner in the Charge Memo were proved. A copy of the Enquiry Report was also served to the Petitioner.

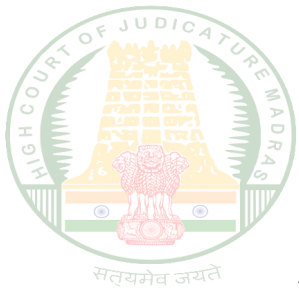
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4. After receipt of the Enquiry Report, the Petitioner made a Representation dated 24.10.2008 to the 1st Respondent. However, the 1st Respondent vide Order in G.O.(3D)No.10 dated 01.09.2014, imposed punishment on the Petitioner as follows:

- (i) There shall be a recovery of Rs.200/- per month from the Petitioner's pension for 2 years for the proved allegation; and
- (ii) There shall be a recovery of Rs.500/- per month from the Petitioner's pension for the financial loss of Rs.86,927.50/- caused by the Petitioner.

Aggrieved by the Order of the 1st Respondent, the Petitioner has filed this Writ Petition.

5. The learned Senior Counsel for the Petitioner submitted that the Impugned Order passed by the 1st Respondent has been primarily assailed on the ground that the Impugned Order suffers from an inordinate delay since the same has been passed after a lapse of 16 years from issuance of Charge Memo dated 28.04.1998.



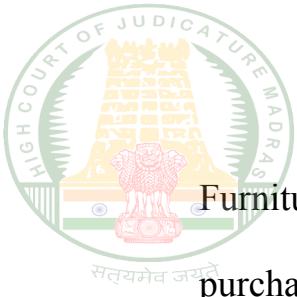
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5.1. It is further submitted by the learned Senior Counsel for the Petitioner that the Petitioner retired from service on 30.09.1994 and the Charge Memo dated 28.04.1998 was issued to the Petitioner after 4 years from the date of his retirement. Hence, it is submitted that the Charge Memo cannot sustain in accordance with Rule 9(2)(b) of the Tamil Nadu Pension Rules, 1978 (for brevity, “1978 Rules”). For better appreciation, Rule 9(2)(b) of the 1978 Rules is extracted hereunder:

“9(2)(b). The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment-

- (i) shall not be instituted save with the sanction of the Government;*
- (ii) shall not be in respect of any event which took place more than four years before such institution; and*
- (iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the Procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.”*

5.2. It is further submitted by the learned Senior Counsel for the Petitioner that when the Petitioner was working as Special Officer at Rasipuram Agricultural Producers Co-operative Marketing Society Limited, Rasipuram (RAPCMS), he received indents from link societies for the supply of 5½ feet steel bureaus and placed orders with Salem District Steel



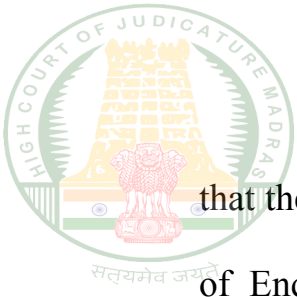
Furniture Manufacturers' Service Industrial Co-operative Society and purchased 109 steel bureaus at the rate of Rs.3,538/- each and sold the same at the rate of Rs.3,680/- to link societies. Hence, no loss was caused to RAPCMS.

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5.3. It is submitted by the learned Senior Counsel for the Petitioner that based on the decision taken by the Joint Registrar of Cooperative Societies, Salem and Deputy Registrar of Cooperative Societies, Salem in the monthly review meeting, purchase orders were placed for supply of steel bureaus.

5.4. That apart, the learned Senior Counsel for the Petitioner submitted that the Impugned Order has been passed only after the issuance of opinion by the Tamil Nadu Public Service Commission. In this connection, the learned Senior Counsel for the Petitioner referred the Letter No.2261/DCD-A1/2010-1 dated 22.03.2013 of the Secretary, Tamil Nadu Public Service Commission addressed to the 1st Respondent.

5.5. It is submitted by the learned Senior Counsel for the Petitioner



that the Impugned Order has been passed merely on the basis of the findings of Enquiry Officer and the Impugned Order is not a detailed and well reasoned order. Hence, the same is liable to be quashed.

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5.6. The learned Senior Counsel for the Petitioner submitted that the Petitioner was aged about 79 years at the time of filing of this writ petition and now, would be about 90 years and there is no instructions from the Petitioner.

6. On the other hand, the learned Additional Government Pleader for the Respondents submitted that the punishment imposed on the Petitioner is only a minor punishment in terms of Rule 17(a) r/w. Rule 8(5) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and the Impugned Order passed by the 1st Respondent does not warrant any interference since the same is well reasoned.

6.1. It is also submitted by the learned Additional Government



Pleader that as regards purchase orders placed by the Petitioner as well as supplies effected in pursuant to the purchase orders, no case has been made out.

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7. Heard the learned Senior Counsel for the Petitioner and the learned Additional Government Pleader for the Respondents and perused the materials available on record.

8. As far as this case is concerned, the Petitioner was only a deputed Special Officer and hence, the task of placing purchase order ought not to have been given to the Petitioner by the Respondent Society. The decision taken by the Respondent Society to assign the said task to the Petitioner is incorrect, even if the Petitioner had not actually participated in the alleged misconduct.

9. It is to be noted that even in the Impugned Order, it has been recorded that purchase orders were placed on the basis of the decision taken by the Joint Registrar of Cooperative Societies, Salem and Deputy Registrar of Cooperative Societies, Salem.



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10. The fact remains that the Charge Memo dated 28.04.1998 issued to the Petitioner culminated in the Impugned Order dated 01.09.2014 passed by the 1st Respondent. The Charge Memo was issued in the year 1998, whereas, the Impugned Order has been passed in the year 2014. There has been an inordinate delay in passing the Impugned Order by the 1st Respondent.

11. In the present case, after the issuance of Charge Memo, an enquiry was conducted and the Impugned Order was also passed after obtaining the opinion of the Tamil Nadu Public Service Commission. However, the Petitioner was not furnished with a copy of the Letter No.2261/DCD-A1/2010-1 dated 22.03.2013 addressed by the Secretary, Tamil Nadu Public Service Commission.

12. Since the Petitioner is at the fag end of his life, this Court is not inclined to sustain the Impugned Order.

13. In the result, the Impugned Order dated 01.09.2014 passed by the



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1st Respondent is hereby quashed and this Writ Petition is allowed. It is made clear that if any amount was recovered from the monthly pension of the Petitioner, the same has to be paid back to the Petitioner forthwith. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.02.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

- 1.The Principal Secretary to Government,
Co-operative Food and
Consumer Protection (CD 1) Department,
Secretariat, Chennai – 9.
- 2.Registrar of Co-operative Societies,
Kilpauk,
Chennai.
- 3.Joint Registrar of Co-operative Societies,
Salem Circle,
Salem.

C.SARAVANAN, J.



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