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relating to the order Na.ka. No. A/A3/2016 dated 21.12.2016 of the 2nd respondent communicating the resolution of the Board Meeting held on 26.10.2016 presided by the 1st respondent confirming the proceedings RC.No.A/2015/A3 dated 26.10.2015 of the 2nd respondent and quash the same as null and void and consequentially directing the respondents to pay all the retirement benefits to the petitioner and pass such further or other orders.

For Petitioner : Mr. C. Venkatesan

For Respondents : Mr. M. Muthusamy, GA – R1 & R3

Mr. K. Rangesh

For Mr. Jayaraman. M- R2

ORDER

The captioned writ petition has been filed seeking the issuance of a writ of certiorarified mandamus to quash the order dated 21.12.2016 passed by the 2nd respondent in Na.Ka.No. A/A3/2016, communicating the resolution of the Board Meeting held on 26.10.2016 presided over by the 1st respondent, confirming the proceedings in R.C. No. A/2015/Ad dated 26.10.2015 of the 2nd respondent, and consequently to direct the 2nd respondent to pay all retirement benefits. By the impugned order, the petitioner, who was working as Senior Assistant, has been dismissed from service.



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2. While the petitioner was working as Senior Assistant in the 3rd respondent-Institution, he was issued with a charge memo dated 22.04.2014.

The charge memo reads as follows:

- i. That he colluded with showroom staff and misappropriated a sum of Rs. 8,86,206.04 by manipulating the accounts.
- ii. That he swindled the State Society funds to the tune of Rs. 9,74,064.86 by manipulating the NOR Account.
- iii. That he deliberately failed to discharge his duties and responsibilities in maintaining the NOR Account properly and committed serious and grave misconduct over the years.
- iv. That he destroyed/misplaced the parallel records of the Regional Office pertaining to the years 2008–2009 (except March 2009) and 2012–2013.
- v. That he committed a breach of trust.

3. The petitioner submitted an explanation denying the allegations vide reply dated 03.06.2014. As the explanation was found unsatisfactory, an Enquiry Officer was appointed. After conducting the enquiry, the Enquiry Officer submitted a report holding that the charges against the petitioner were



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proved. Thereafter, the petitioner was issued a second show cause notice, to which he submitted his reply. The 2nd respondent thereafter passed an order dismissing the petitioner from service, which was confirmed by the Appellate Committee under Chapter IV, Section 10 of the Co-Optex Code of Conduct. Aggrieved by the same, the present writ petition has been filed.

4. Learned counsel for the petitioner, assailing the impugned order, submitted that the Enquiry Officer concluded that the charges were proved solely on the basis of the depositions of employees who worked in the Chembur and Rajiniketan showrooms, who stated that they had given amounts which were allegedly misappropriated by the petitioner. He further submitted that the disciplinary authority failed to independently apply its mind and arrive at a conclusion regarding the proof of charges after considering the explanation offered by the petitioner. This, according to him, vitiates the order for failure to pass a speaking order and amounts to violation of the principles of natural justice.

5. Per contra, learned counsel for respondents 2 & 3 submitted that the petitioner had categorically admitted his guilt and that the statements of the



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management witnesses coupled with the SMS sent by the petitioner to one Sundaram clearly establish that he had received the money from the employees of the two showrooms and misappropriated the same. Therefore, the finding recorded by the Enquiry Officer is based on cogent evidence on record and there is no perversity or arbitrariness in the findings. Hence, the impugned dismissal order does not warrant any interference and the writ petition is liable to be dismissed.

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

7. The petitioner was served with the charge memo along with the imputations, to which he submitted a reply dated 17.09.2014 denying the allegations. The allegation against the petitioner is that, while working as Senior Assistant, he misappropriated amounts by falsification of bank charges over and above the actual bank charges, amounting to Rs. 8,86,206.04. The further allegation is that he swindled the State Society funds to the tune of Rs. 9,74,064.86 by manipulating the NOR Account, and upon verification by the Vigilance Team, it was found that the showrooms had genuinely remitted the amounts and produced challans as proof.



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8. The further allegation is that he failed to maintain the NOR Account properly and did not detect the irregularities committed by the culprits and also colluded with the showroom staff in misappropriating the amount. It is also alleged that he destroyed/misplaced the parallel records of the Regional Office for the years 2008–2009 and 2012–2013, thereby committing breach of trust.

9. The entire allegation relates to the non-remittance of amounts collected from the respective showrooms. According to the respondents, on verification by the Vigilance Team, it was found that the showrooms had genuinely remitted the amounts and produced challans as proof. However, no documentary evidence has been substantiated to prove the allegations against the petitioner. The management examined the showroom employees as witnesses, who alleged that they had paid the money to the petitioner which, according to the respondents, was not credited to the bank account.

10. From the translated copy of the domestic enquiry report, it is noticed that the petitioner allegedly admitted that when he was looking after the NOR Section during 2012–2013, due to computer malfunction, the accounts were



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maintained manually, and because of incorrect manual postings, excess bank charges of Rs. 3,25,689.70 had occurred. He accepted responsibility for the incorrect postings to that extent and also for the RTI balance of Rs. 87,858.82, though no documentary evidence was produced in support of his explanation.

11. The petitioner–delinquent also stated that he did not receive any money from the showrooms and that they did not provide any cheque numbers for such amounts. However, the enquiry report indicates that the employees who worked in the Chembur and Rajiniketan showrooms confirmed in their depositions that they had given money to the petitioner. No supporting documents were produced to substantiate the said depositions, except that one Mr. Sundaram produced a printout of an SMS allegedly sent by the petitioner containing a cheque number. Mere mentioning of a cheque number, however, does not establish that the petitioner received any money, and the cheque amount itself is not forthcoming in the SMS.

12. In cases relating to misappropriation of money, the charge cannot be established by oral evidence alone and must be proven through documentary evidence. The alleged admission of the petitioner, which according to him was



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made under duress, relating to manual maintenance of the NOR Account during 2012–2013, does not establish misappropriation, particularly when the allegations pertain to the period 2008–2009 and 2012–2013.

13. A criminal case was also registered against the petitioner for the alleged misappropriation, which culminated in the filing of a charge sheet and trial. The Addl. Chief Metropolitan Magistrate–I, Bandra, Mumbai, by judgment dated 03.10.2019, acquitted the petitioner of the offence under Section 408 IPC, holding that the prosecution had failed to prove entrustment and misappropriation.

14. The respondent–Management has not produced any documentary evidence to show that the showrooms had genuinely remitted the amounts and produced challans as claimed. The challans were not produced before the Enquiry Officer. The manual general vouchers and computerized NOR Account vouchers allegedly prepared by the petitioner were also not produced. Though the charge memo alleged misappropriation not only against the petitioner but also against the showroom staff, none of the showroom staff were subjected to any enquiry. The allegation that the petitioner remitted



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amounts to accounts of other showrooms is vague and unsubstantiated, as neither the showroom names nor supporting records were provided.

15. The order of dismissal passed by the disciplinary authority discloses that the authority merely recorded the findings of the Enquiry Officer and the explanation submitted by the petitioner without forming an independent opinion. The order proceeds only on the basis of the alleged admissions relating to incorrect bank postings during 2012–2013, but does not disclose the dates on which the showroom employees allegedly entrusted money to the petitioner.

16. Mere deposition by the petitioner cannot establish misappropriation unless supported by documentary evidence showing incorrect postings, excess bank charges of Rs. 3,25,689.70 and the alleged remittance of Rs. 87,852.82 to other showroom accounts. Since all financial records were in the custody of the respondent–Management, the burden squarely lay upon them to prove the alleged misappropriation.



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17. In these circumstances, the alleged admission made by the petitioner during the enquiry appears to be under duress and not voluntary. The respondent–Management has failed to establish misappropriation by producing documentary evidence, except for the oral statements of showroom employees, who vaguely stated that money was given in March 2013, without specifying the exact amounts.

18. The learned counsel for the respondent–Management contended that an efficacious alternative remedy of revision is available under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. However, the writ petition pertains to the year 2017, and the Respondent–Society is admittedly a Government undertaking, a State instrumentality. Hence, the availability of the remedy of revision is not a bar to the entertainment of this writ petition, particularly when the material on record clearly establishes that the enquiry was conducted on mere surmises and conjectures. Relegating the petitioner to avail the alternate remedy after eight years would amount to a travesty of justice, resulting in a miscarriage of justice to the petitioner rather than securing the ends of justice. On the contrary, no injustice or prejudice would be caused to Respondent No. 3.



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19. In view of the foregoing, this Court is of the considered view that there is no cogent evidence, much less any evidence, to substantiate the allegations against the petitioner. The impugned order of dismissal passed by the Disciplinary Authority is not a speaking order and is, therefore, not legally sustainable.

20. Accordingly, the following order is passed:

- i. The Writ Petition is allowed. The impugned order in Na.ka.No.A/A3/2016 dated 21.12.2016 passed by the 2nd respondent is quashed.
- ii. Respondents 2 and 3 are directed to pay all the retirement benefits and other attendant benefits flowing from this order within a period of three (3) months from the date of receipt of a copy of this order.
- iii. No costs.

04.12.2025

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HEMANT CHANDANGOUDAR, J.
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To

1.The President

Tamil Nadu Handloom Weavers

Cooperative Society

Pantheon Road, Egmore, Chennai.

2.The Managing Director,

Tamil Nadu Handloom Weavers

Cooperative Society

Pantheon Road, Egmore, Chennai.

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