

W.P. No. 33257 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 33257 of 2019

C.Thavamani

... Petitioner

-VS-

1. The Joint Registrar of Co-operative Societies
Dharmapuri Region
Dharmapuri.
2. The Joint Registrar /Managing Director
Dharmapuri District Central Co-operative Bank Ltd.
Dharmapuri.
3. S.993, Baisuhalli Primary
Agricultural Co-operative Credit Society
Rep. By its President
Baisuhalli, Dharmapuri.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to order dated 01.10.2019 made in Na.Ka.No.1224/2017/Sa.Pa. Passed by the 1st respondent in confirming the order made in Na.Ka.No. 204/2015/B2 dated 02.01.2017 by the second respondent so far it is against the petitioner and consequently direct the respondents to pay all attendant benefits to the petitioner.



W.P. No. 33257 of 2019

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For Petitioner : Mr.G.Ethirajulu
For Respondents : Mr.M.Muthusamy, GA (RR1 to 3)
Mr.M.Thirumoorthy,
for Mr.L.P.Shanmugasundaram (R2)

ORDER

This writ petition has been filed challenging the order dated 01.10.2019 made in Na.Ka. No.1224/2017/Sa.Pa. Passed by the first respondent in confirming the order made in Na.Ka. No.204/2015/B2 dated 02.01.2017 by the second respondent so far it is against the petitioner and consequently direct the respondents to pay all attendant benefits to the petitioner.

2. Heard Mr.G.Ethirajulu, learned counsel for the petitioner and Mr.M.Muthusamy, learned Government Advocate for the first and third respondents and Mr.M.Thirumoorthy representing for Mr.L.P.Shanmugasundaram, learned counsel for the second respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner was appointed as an Assistant in Dharmapuri District Central Co-operative Bank Limited on 01.12.2010. The petitioner has worked as a Circle Supervisor between the period from 02.07.2013 to 31.07.2015. On

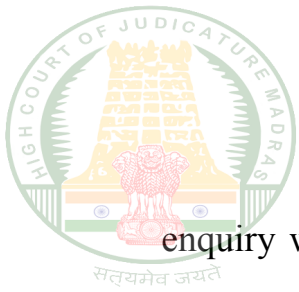


W.P. No. 33257 of 2019

21.03.2016, the second respondent issued a charge memo on certain allegations

to the petitioner. The petitioner submitted his explanations on 09.05.2016 and stated that the defect was due to the improper maintenance of the ledger by the third respondent society by the superior. The charge memo did not reveal that any loss has occurred due to the negligence of the petitioner. The petitioner was not given with the copy of the 81 enquiry report. The enquiry officer filed a report without conducting proper enquiry to the second respondent. The mere reading of the enquiry report dated 19.07.2016 would show that there was no discussion about the charges. On receipt of the second show cause notice also, the petitioner has given his explanations and the petitioner has not given any undertakings on his own but only out of compulsion. The second respondent simply concurred with the enquiry officer's findings without analysing the report. The first respondent /revisional authority also mechanically accepted the orders of the second respondent.

4. The learned counsel for the petitioner submitted that the enquiry has been conducted in violation of principles of natural justice and the charge memo did not have any monetary ingredients to make out the charges. Both the first and second respondents authority did not discuss the matter in detail as they did not apply their mind. The petitioner was forced to give an understanding that the



W.P. No. 33257 of 2019

enquiry was conducted in a fair manner and hence it is not acceptable. In the

absence of any enquiry against the third respondent employees, the second respondent has got no jurisdiction to enquire the petitioner on his own.

5. The learned counsel for the respondents 1 and 2 submitted that the enquiry has been conducted only after following the due procedure and after giving due opportunity to the petitioner. When the petitioner was working as a Circle Supervisor between the period from 02.07.2013 to 31.07.2015, he had the responsibility to look-after various societies including the third respondent society. In an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, as ordered by the Deputy Registrar in respect of the third respondent society, it is revealed that a sum of Rs.40,81,600/- was misappropriated during the jewel loan transactions in respect of 40 borrowers. Apart from that a sum of Rs.6,85,200/- remitted by nine(9) individuals to discharge their jewel loans was not credited into the respective accounts but misappropriated.

5.1. The petitioner being the superior is bound to supervise the working of the society, which led to the loss caused to the society to the tune of Rs.47,66,800/-.

In a disciplinary action initiated against the petitioner, he was given with the



W.P. No. 33257 of 2019

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punishment of stoppage of increment for one year with cumulative effect. The review petition filed by the petitioner before the first respondent has resulted in modifying the punishment order into a punishment of stoppage increment of one year without cumulative effect.

6. Some of the essential duties for the petitioner is to supervise proper functioning of the society under his control. Without verifying the records, the jewel loan has been sanctioned with the society. Both the disciplinary authority and revisional authority have applied their mind and after having convinced the report and materials, have passed the order. The period of suspension cannot be treated as duty period.

7. The charges against the petitioner is grave in nature and it is alleged that the petitioner cannot escape from the liability. The petitioner's role as a supervisor demanded him to execute the following function:-

- (i) He will watch the work of the societies, in the societies allotted to him;
- (ii) He will be responsible for the proper functioning of the societies, under his control;
- (iii) He will take-up quarterly inspection of atleast 1/3 of the society allotted to him in a month and all the societies within the quarter. He must also



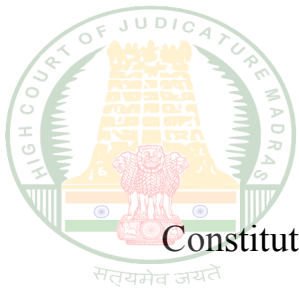
W.P. No. 33257 of 2019

send special report if any defects or lapse requires immediate action;

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- (iv) He will check the accounts of the societies from the date of his last visit to the society to the date of his visit. Verify the cash balance and sign the Day Book for having checked the accounts and verified the cash balance;
- (v) He will see that there is proper security for the loans disbursed to the societies by the Bank; and
- (vi) He will see that the following register are maintained properly and up to date day book pledge stock register, jewel loan register, appraiser register, jewel verification register, jewel stock register, jewel loan security register.

8. Despite the petitioner has stated that the charges are not accurate and specific, he did not challenge the charges, he participated in the enquiry proceedings by understanding the charges and by offering his explanations. The enquiry report would show that the petitioner has been given with due opportunity and he has been furnished with all the relevant materials relied by the department. Insofar as the quantum of the loss caused to the society, the loss liable to be paid by the petitioner would be determined under Section 87 surcharge proceedings. Insofar the domestic enquiry conducted against the petitioner is concerned, the scope to invoke jurisdiction under Article 226 of the



W.P. No. 33257 of 2019

Constitution is very limited. The petitioner could offer his explanations only

because he has given with opportunity to offer his explanation and after the enquiry, all the charges have been proved. Some of the charges are serious in nature. The reasons stated by the petitioner is that he was over burdened with work and hence he could not supervise properly, but that reason was not accepted. The disciplinary authority has thoroughly perused the report of the enquiry officer and then only chosen to pass an order against the petitioner. The petitioner himself has given in writing that he was given with due opportunity at the time of enquiry. Hence, the petitioner is estopped from saying now that he has not been given with any opportunity.

9. A very lenient view has been taken in the matter of punishment by imposing a punishment of stoppage of one year increment with cumulative effect. Even when the second respondent /disciplinary authority has imposed the punishment of stoppage of increment with cumulative effect, the first respondent has reduced it further by ordering stoppage of one increment without cumulative effect. There is no lack of jurisdiction on the part of the respondents to pass the above order. The petitioner did not make out any ground to show that there was violation of principles of natural justice as pleaded. The orders passed by the respondents are speaking orders and they are based on the



W.P. No. 33257 of 2019

evidence available during the enquiry. The punishment imposed also is not disproportionate to the allegation made. As the petitioner has been given with the reasonable opportunity to participate in the enquiry and he has also effectively defended him, I do not find any reason to set aside the impugned orders.

10. In view of the above stated reasons, this writ petition is dismissed. No costs.

21.02.2025

1/3

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

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Dharmapuri Region
Dharmapuri.
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W.P. No. 33257 of 2019

R.N.MANJULA, J.

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W.P. No. 33257 of 2019

Dated :21.02.2025

1/3