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W.A.No.201 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

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1. The Joint Registrar of Coop. Societies
Villupuram Region, Villupuram
Villupuram District.
2. The Deputy Registrar of Coop. Societies/PDS
Villupuram, Villupuram District. .. Appellants

Vs.

S.Sadasivam .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent Act,
against the order dated 30.11.2023 made in W.P.No.13008 of 2011.

For the Appellants : Mr.S.Ravikumar
Special Government Pleader (Co-Op.)

For the Respondent : Mr.C.Prakasam

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order
passed by the Writ Court dated 30.11.2023 made in W.P.No.13008
of 2011.

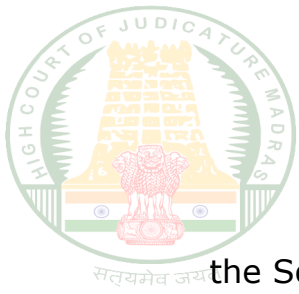


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2.1. The respondent/writ petitioner was appointed initially as Sub-Inspector of Cooperative Society through the Tamil Nadu Public Service Commission in the year 1982 and then, he was promoted to the post of Senior Inspector of Cooperative Society in the year 1984 and was further promoted as Cooperative Sub-Registrar in the year 1996. While so, when he was working as Sub-Registrar (PDS) in Thirunavalur Block in the Office of the second appellant, he was appointed as a Special Officer for three Cooperative Societies by way of additional charge, where, he has to look after ration shops, supply of ration items without any scarcity to all the ration shops and also has to perform his duties as Sub-Registrar of Cooperative Society.

2.2. That apart, he was also given the additional charge of the Thirunavalur Uzhavar Pani Kooturavu Sangam between 12.01.2010 and 24.05.2010. During this period, on 25.02.2010, theft was reported in the said Cooperative Society, based upon which, a criminal case was lodged. Two of the employees of the said Society indulged in the theft along with a third party. Therefore, a charge memo was issued against the respondent/writ petitioner, being Disciplinary Proceedings, as the respondent/writ petitioner was the Special Officer, who was responsible for the effective supervision of



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the Society.

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2.3. Explanation was given by the respondent/writ petitioner and not being satisfied with the same, an Enquiry Officer was appointed and the charge memo was enquired into. The Enquiry Officer has given a report stating that the two charges framed against the respondent/writ petitioner have been proved. Based on the proven charges, the appellant Department, being the employer, has imposed the punishment of dismissal from service against the respondent/writ petitioner through the order dated 31.03.2011. Challenging the same, the respondent/writ petitioner approached the Writ Court by filing the subject writ petition, i.e., W.P.No.13008 of 2011.

2.4. The learned Single Judge of the Writ Court, having heard the said writ petition, has ultimately come to the conclusion that the respondent/writ petitioner was in-charge of the three Societies by that time, that apart, he officiated the Office of the Sub-Registrar of Cooperative Society and he was also in-charge of the present Society, namely the Thirunavalur Uzhavar Pani Kooturavu Sangam, where theft occurred. The learned Single Judge also has observed that insofar as the criminal case is concerned, the respondent/writ



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petitioner's name itself has not been included in the First information Report and therefore, there has been no charge on the criminal side against the respondent/writ petitioner.

2.5. These aspects, having been taken into account by the learned Single Judge, has come to the conclusion that since the workload of the respondent/writ petitioner was very heavy during that relevant point of time, he could not keep the keys of the Society concerned, from where the theft occurred and therefore, the keys were entrusted upon two other persons and these two persons indulged in theft. Therefore, on that ground, the learned Single Judge has come to the conclusion that the charges framed against the respondent/writ petitioner cannot be said to be misconduct on the part of the respondent/writ petitioner, to be proceeded with by the Authority and resultantly, the learned Single Judge allowed the said writ petition by setting aside the order of punishment of dismissal from service, imposed upon the respondent/writ petitioner, whereby, since the respondent/writ petitioner has already superannuated, his terminal benefits were directed to be disbursed within a time frame.

3. Aggrieved over the said order, the present appeal has been



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directed at the instance of the appellants.

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4.1. *Mr.S.Ravikumar*, learned Special Government Pleader (Co-Op.), appearing for the appellants would contend that the respondent/writ petitioner, in the capacity of Sub-Registrar, has been given the charge of Special Officer of three Societies apart from the Society, where the theft occurred, which also he had to look after. Merely because a number of Societies have been entrusted upon him, he cannot shift his responsibility by stating that due to overload, he could not attend the Societies everyday and therefore, the keys were entrusted upon two other persons, only at the decision of the respondent/writ petitioner.

4.2. By virtue of the said decision, the keys were entrusted upon two other persons by the resolution, taken consequent to the order dated 27.04.2010. Those two persons, to whom the keys were handed-over, has now indulged in the activity of theft, thereby, jewels worth more than Rs.1.6 crores have been stolen. That apart, Rs.3 lakhs, in cash, has been stolen.

4.3. Insofar as the cash that has been kept unsafely in the



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Society premises, which enabled the two persons to steal the same, is concerned, it is submitted by the learned Special Government Pleader that as per the bylaws, maximum cash of Rs.10,000/- alone has to be kept at the premises of the Society. Despite that, the respondent/writ petitioner had allowed the employees to keep cash of more than Rs.3.00 lakhs in the Society premises itself, that is Rs.3,50,079.34/-.

4.4. These are all the factors, according to the learned Special Government Pleader appearing for the appellants, have not at all been considered by the learned Single Judge while disposing the writ petition through the impugned order. Therefore, for the proven charges, the punishment that has been imposed upon the respondent/writ petitioner is proportionate and such a punishment ought not to have been interfered with by the learned Single Judge through the impugned order. Hence, he seeks indulgence of this Court.

5.1. We have also heard *Mr.C.Prakasam*, learned counsel appearing for the respondent/writ petitioner/caveator, who would submit that insofar as the job nature of the respondent/writ petitioner is concerned, he was a Government Servant in the



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category of Sub-Registrar, to whom, already the additional charge of ration shops have been given, including three Societies. That apart, he had to attend the regular duties as a Sub-Registrar of Cooperative Society also. When that being the position, already heavy workload has been entrusted upon him. To add on that, one more work of charge of the present Society, that is the Thirunavalur Uzhavar Pani Kooturavu Sangam, also has been entrusted upon him between the period 12.01.2010 and 24.05.2010.

5.2. During this period, due to heavy workload, which has been entrusted upon him, he could not everyday go to the Society in question to open the Society. Therefore, the keys have been handed-over to the responsible staff of the Society by the resolution that has been passed on 23.02.2010, followed by the proceedings of the Society dated 27.04.2010.

5.3. The learned counsel would also submit that merely because the order has been passed, giving effect to the resolution taken by the Society, thereby entrusting the keys of the Society to two of the employees, would not, in any way, make the respondent/writ petitioner liable for the theft that has occurred, for which, the two of the said employees alone would be responsible.



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5.4. More over, even in the criminal case, according to the learned counsel appearing for the respondent/writ petitioner, the name of the respondent/writ petitioner has not been shown in the First Information Report and nothing has been proceeded against him. Therefore, the learned counsel appearing for the respondent/writ petitioner would submit that the learned Single Judge, having taken note of all these factual matrix, has come to the right conclusion in setting aside the order of punishment imposed upon the respondent/writ petitioner and hence, the learned counsel seeks indulgence of this Court in not to interfere with the decision taken by the learned Single Judge.

6. We have given our anxious consideration to the said rival submissions made by the learned counsel appearing for both parties and have perused the materials placed before this Court.

7.1. We have gone through the two charges that has been framed against the respondent/writ petitioner. Insofar as the first charge is concerned, it is in the nature that the respondent/writ petitioner was appointed as a Special Officer by the order of the Joint Registrar of Cooperative societies, Villupuram, and took charge



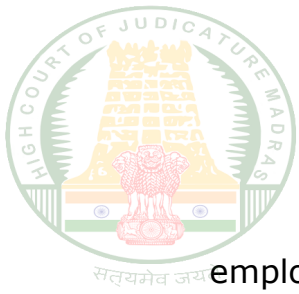
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on 12.01.2010 and worked till 24.05.2010. During this period, when he was working as a Special Officer in Thirunavalur Uzhavar Pani Kooturavu Sangam on 22.05.2010, jewels worth Rs.1,64,12,445/- and cash of Rs.3,50,079.34/- were stolen due to the negligence in discharging the official duties and responsibilities and the respondent/writ petitioner failed to pay full devotion to duty as a Special Officer and caused financial loss and stigmatization to the said Society.

7.2. Insofar as this period is concerned, the only responsibility, that has been stated even in the first charge framed against the respondent/writ petitioner, is that he was not in full devotion to the duty as a Special Officer. In this context, it is to be noted that insofar as the entrustment of the keys to the two persons who are the employees of the Society are concerned, the decision was not independently taken by the Special Officer, but was taken only through the resolution that has been passed by the Society and which has been implemented by the Special Officer.

7.3. Therefore, to that extent, the Special Officer cannot be blamed for entrusting the keys to those two persons. Merely because those two persons, who were already working as



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employees to the Society, indulged in such theft activity, the blame cannot be put against the Special Officer. Therefore, insofar as the first charge is concerned, the conclusion arrived by the Enquiry Officer, that the first charge has been proved, is concerned, we do not agree with the said view expressed by the Enquiry Officer and subsequently, accepted by the Disciplinary Authority.

8.1. Insofar as the second charge is concerned, it has also been stated that as per the bylaws of the Society, the maximum amount of Rs.10,000/- alone should be maintained in the "each day closing reserve", but as per the cash slip on 22.05.2010, there was a cash balance of Rs.3,50,079.34/-. Therefore, it was found that insofar as keeping such high amount of cash, that instead of Rs.10,000/-, keeping an exorbitant amount of Rs.3.50 lakhs, ought not to have been kept in the custody of the Society.

8.2. Therefore, that kind of issues could have been verified and properly supervised by the respondent/writ petitioner as a Special Officer of the Society. Therefore, to that extent, he cannot shift his responsibility to state that "I am not responsible for keeping the higher amount in cash to the extent of Rs.3.50 lakhs in the premises of the Society", which goes against the very



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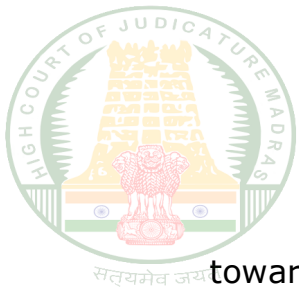
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prescription made in the bylaws, under which, the only maximum amount of Rs.10,000/- alone could be kept at the Society premises.

8.3. Therefore, we are of the view that the second charge, certainly, would have been proved and for such a proven charge, now, the question is whether the punishment of dismissal from service is proportionate or not.

9.1. Insofar as the proportionality of the punishment is concerned, unless if it had shock the conscience of this Court, normally, this Court would not have interfered, but, in the present case, the respondent/writ petitioner was a regular Officer in the cadre of Sub-Registrar and if at all any additional charge has been given as a Special Officer of a Society, normally, such additional charge could be given in respect of only one Society. But, in respect of the respondent/writ petitioner, three Societies have been given to him as additional charges as Special Officer.

9.2. Therefore, a normal human being cannot be expected to give full attention to all the Societies at the same time apart from his regular work. When that being the position, it cannot be stated that he has not fully, devotionally, exercised his functions and duties



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towards the Society and therefore, the first charge cannot be stated to be proven. However, as a Special Officer, he knew well that the maximum cash limit of Rs.10,000/- is to be kept at the premises of the Society. Despite the same, if cash of Rs.3.50 lakhs has been kept at the Society, that kind of practice, being adopted by the employee of the Society, could have been supervised effectively by the Special Officer and he has not supervised the same properly.

9.3. Therefore, we are of the view that some punishment has to be imposed against such proven charge against the respondent/writ petitioner. But, such punishment cannot be a maximum punishment of dismissal from service. Therefore, we are of the view that such exorbitant punishment of dismissal from service shocks the conscience of this Court, therefore, we are inclined to interfere with the proportionality of the punishment under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. Under Rule 8, there are a number of punishments mentioned, where, apart from removal from service or compulsory retirement, as those punishments are on the higher side, we feel that his increment could be withheld for a period of one year with cumulative effect and therefore, such a punishment can very well be imposed against the respondent/writ petitioner.



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10. As a result, we are inclined to dispose of this writ appeal by making the following modifications to the impugned order passed by the learned Single Judge of the Writ Court:

(i) The order passed by the learned Single Judge, setting aside the order of punishment of dismissal from service imposed upon the respondent/writ petitioner, is to be upheld and therefore, the same stands upheld.

(ii) However, for the second proven charge, as we have discussed herein above, since an alternative punishment in commensurate with the proven charge has to be imposed upon the respondent/writ petitioner, we are of the view that the punishment of withholding the increment of the respondent/writ petitioner for a period of one year with cumulative effect can be imposed, as the same is also a major penalty.

(iii) On such punishment being imposed against



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the respondent/writ petitioner, his services shall be taken into account till his superannuation and all his retirement benefits, including pensionary benefits, shall be calculated and be sanctioned and paid to the respondent/writ petitioner within a period of three months from the date of receipt of a copy of this order.

(iv) In view of the order passed in this writ appeal Cont.P.No.2921 of 2024 shall not be precipitated by the respondent/writ petitioner, of course, for the period of three months.

11. With these modifications in the impugned order passed by the learned Single Judge, this writ appeal stands disposed of. However, there shall be no order as to costs. Consequently, C.M.P.No.1363 of 2025 is closed.

(R.S.K., J.) (C.S.N, J)
29.01.2025

Neutral Citation:Yes/No
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R. SURESH KUMAR, J.



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AND
C. SARAIVANAN, J.

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