



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2025

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THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.(MD)No.17219 of 2019

and

W.M.P(MD)Nos.13718 & 13721 of 2019

K.Elangovan

... Petitioner

Vs

1.The President,
Y.M.35, Pachamalai Lamb Co-Operative Society Limited,
Melsengattupatti Post, Thuraiyur Taluk,
Trichy District.

2.The Joint Registrar of Co-Operative Societies,
Trichy, Trichy District.

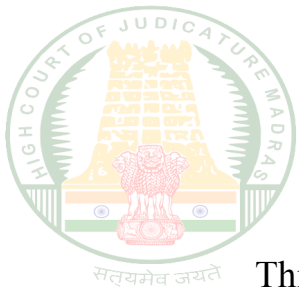
3.The Deputy Registrar of Co-Operative Societies,
Musiri, Trichy District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorarified Mandamus** to call for the records pertaining to the impugned order of 2nd Respondent in his proceedings in Na.Ka.No. 1659/2018/Sa.Pa, dated 29-03-2019, and consequential order passed by the 1st respondent in his proceedings No. Nil dated 17-11-2017, and quash the same as illegal and consequently direct the 1st Respondent to reinstate the petitioner in service with all benefits and arrears.

For Petitioner : M/s.J.Jeyakumaran

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R2 and R3
No appearance for R1



ORDER

This Writ Petition is filed by the petitioner challenging the punishment of dismissal passed by the first respondent dated 17.11.2017, subsequently confirmed by the second respondent by an order dated 29.03.2019.

2. According to the petitioner, while he was serving as a Secretary in the Pachamalai Lamb Co-operative Society Limited during the period of August 2017, he was served with the following charges:-

a) he received a sum of Rs.7,600/- from one K.Mookusamy on 06.06.2017 and accounted only as Rs.1,550/- and balance amount of Rs.6,050/- was misappropriated; and

b) he received a sum of Rs.39,500/- from one Murugaraj, for remitting the jewel loan and he failed to upload the statement of account till 31.03.2017.

The petitioner submitted his reply to the charge memo and based on the proceedings dated 11.08.2017, an enquiry officer was appointed.

3. The enquiry officer has conducted an enquiry and after examining the witnesses, has given a finding that the charge Nos.1 and 3 have been proved and discharged the charge No.2. Based on the enquiry report, the appointing authority has served a copy of the enquiry report and called for further representation from the petitioner and after considering the further representation of the petitioner, passed final orders dismissing the petitioner from service. Aggrieved over the dismissal, the petitioner herein had preferred



this Writ Petition challenging the dismissal from service in W.P.(MD)No.2577

of 2018, before this Court and this Court has directed the petitioner to work out the alternative remedy. Accordingly, the petitioner has approached the Revisional Authority and the Revisional Authority also concurred with the dismissal of revision. Aggrieved over the dismissal of the Revisional Authority and also Challenging the dismissal from service, the petitioner has filed this Writ Petition.

4. According to the learned Counsel for the petitioner, though the three charges were framed, the charge Nos.1 and 2, are identical and the enquiry officer has rendered the finding accepting the charge No.1 and rejected the contention of the charge No.2, on the ground that one of the members concerned with the charge No.2, has stated that he has paid money and his evidence is not believable. The learned Counsel for the petitioner has further submitted that since one of the complainant's oral testimony is not accepted by the enquiry officer, the testimony of the other witnesses namely, K.Mookusamy, was also liable to be rejected on the very same ground. Hence, the charge no.1, is also liable to be rejected. With regard to charge No.3, the petitioner is not a person who is having knowledge in handling the computer. Hence the failure to upload the accounts in the computer could not be held against the petitioner and this was not properly appreciated by the enquiry officer and the disciplinary authority. Hence, he prayed to set aside the impugned order.

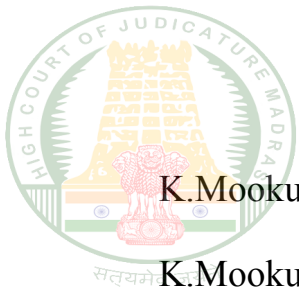


5. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that there is no allegation regarding non-observation of the natural justice to the enquiry proceedings. The petitioner herein has been offered with fair opportunity and based on the evidence recorded on the side of the department, the petitioner held to be committed misconduct of misappropriation in charge No.1 and also the charge of misconduct relating to non-upgrading the statement of accounts of the Society in the computer.

6. He has further submitted that the misconduct involved in this case is misappropriation and non-recording of accounts which are serious in nature. Hence, the order of dismissal is proper and same is not disproportionate to the changes.

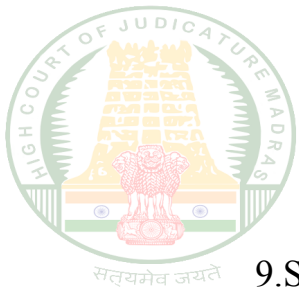
7. I have considered the submissions made on either side and perused the materials available on record.

8. The charge No.1, is that the petitioner herein has received a sum of Rs. 7,600/- from one K.Mookusamy and issued challan only for Rs.1,550/- indicating that the amount was received only Rs.1,550/-. The remaining of Rs. 6,050/- was not brought into the account and the same has been misappropriated. K.Mookusamy has lodged a complaint in this regard on 12.07.2017, to the Society. It is the specific complaint that the petitioner herein has misappropriated a sum of Rs.6,050/- belongs to him. In his reply, the petitioner has taken a stand that he received a sum of Rs.7,600/- from



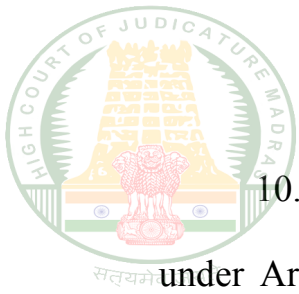
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K.Mookusamy and credited Rs.500/- in the savings bank account of K.Mookusamy and Rs.1,000/- as a share amount and entry fee of Rs.50/-, totally Rs.1,550/- was entered into the account. Further, the petitioner has stated that K.Mookusamy himself requested through telephone to credit a sum of Rs.6,000/- in the share amount of the K.Mookusamy. Accordingly, on 07.07.2007, this entry was made and the receipt was also issued. However, this was not properly entered in the account book of the Society. That was considered by the enquiry officer and it was held by the enquiry officer that there is no document to show that on 07.07.2007, a sum of Rs.6,000/- was entered into the account book and the receipt was also issued. Further, the petitioner has not taken any steps to show that he has issued a receipt on that day. Complainant Mr.K.Mookusamy was examined before the enquiry officer and after examination, the evidence was accepted and the petitioner has found to be misappropriated of Rs.6,000/-. When this enquiry report was furnished to the petitioner seeking representation, the petitioner has taken a contradictory stand and stated that the receipt for Rs.6,000/- was issued on 15.07.2017, and there is no misappropriation as alleged and it has been wrongly entered in the passbook of the K.Mookusamy as on 06.06.2017, itself as Rs.7,000/-. This contradictory statement was considered by the disciplinary authority and it has been held that the petitioner herein has misappropriated a sum of Rs.6,000/- belongs to K.Mookusamy.



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9. Since there is a categorical admission from the part of the petitioner herein with regard to the receipt of sum of Rs.7,600/- from one K.Mookusamy, the burden is on the petitioner to prove that those amounts were properly entered into the account of the Society whereas, in his explanation he has stated that he issued a receipt only on 15.07.2017, i.e. after complaint lodged by the K.Mookusamy. Further, there is no evidence placed either before the enquiry officer or before this Court to show that this amount was also properly entered immediately after receipt of money. This Court finds no infirmity or perversity in holding that the petitioner is guilty of charge No.1 and same is based on evidence recorded during enquiry. Similarly the charge No.3 is concerned, the petitioner admits that he has not entered into the account statement in the computer till the final date, namely, 31.03.2017(end of financial year). Not maintaining the account book of the Society is not an ordinary issue, but it is a serious issue. Since the Society is handling huge cash deposits and maintenance of the accounts are very essential part of the persons who are managing the Society. Hence, there cannot be any leniency to drop the charges in this regard. The disciplinary authority has decided that it is a serious misconduct.



10. The power of judicial review of this Court in exercising of power under Article 226 of the Constitution of India is very limited and this Court finds that, the proven misconduct against the writ petitioner is based on evidence recorded by following the principles of natural justice and there is no allegation of violation of any principles of natural justice or Rules or regulation. Hence, there is no ground to interfere with the impugned order holding that the writ petitioner is guilty of misconduct charged against him.

11. With regard to the punishment is concerned, it is well settled that in the cases of misappropriation, no leniency could be shown to any person. In this case, though it is stated by the petitioner that there is no misappropriation as alleged and the amount was properly accounted, there is no materials placed either before the disciplinary authority or before this Court. Further, subsequent repayment of the misappropriated amount would not alter the entire misconduct committed by the petitioner herein. Hence, this Court is not inclined to extent any benefits in this regard.

12. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petitions are also closed.

26.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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K.RAJASEKAR, J.

RJR

To

1.The Joint Registrar of Co-Operative Societies,
Trichy, Trichy District.

2.The Deputy Registrar of Co-Operative Societies,
Musiri, Trichy District.

W.P.(MD)No.17219 of 2019

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