



W.P.Nos.35377 of 2013 & 31606 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2026

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.Nos.35377 of 2013 & 31606 of 2014
and
M.P.No.1 of 2014

M.Srinivasan

... Petitioner
in W.P.No.35377 of 2013

No.989, M.Pakkam Primary Agricultural Co-operative
Credit Society Ltd.,
Rep. By its President, Pakkam Village
G.S.T.Raod, Maduranthagam Taluk
Kancheepuram District.

... Petitioner
in W.P.No.31606 of 2014

vs.

1. The State of Tamil Nadu
Rep. By its Principal Secretary
Co-operation, Food and Consumer Protection Department
Secretariat, Chennai-600 009.
2. The Registrar of Co-operative Societies
N.V.Natarajan Maaligai,
E.V.R.Periyar High Road
Kilpauk, Chennai-600 010.
3. The Joint Registrar of Co-operative Societies
Common Cadre Authority,

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Kancheepuram District
Kancheepuram – 631 501.

4. No.989, M.Pakkam Primary Agricultural Co-operative Bank
Rep. By its President, Pakkam Village
G.S.T.Raod, Maduranthagam – 603 306. ... Respondents
in W.P.No.35377 of 2013

1. The Government of Tamil Nadu
Rep. By its Secretary
Co-operation, Food and Consumer Protection Department
Fort St.George, Chennai-600 009.

2. The Registrar of Co-operative Societies
No.170, N.V.N Maaligai,
Kilpauk, Chennai-600 010.

3. M.Srinivasan
S/o.Munusamy. ... Respondents
in W.P.No.31606 of 2014

Writ Petition No.35377 of 2013 filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the order G.O.(2D) No.78 dated 06.09.2013 of the first respondent read with the Order No.Na.Ka.88744/2011/Sapa.1 dated 06.01.2012 issued by the 2nd respondent, along with the order No.Na.Ka.1768/2007/Aa1 dated 21.04.2010 issued by the 3rd respondent and for consequential direction to the respondents to reinstate the petitioner in service as Secretary of the 4th respondent Bank, with all attendant service benefits, backwages, continuity of service, seniority etc., and all other monetary benefits.



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Writ Petition No.31606 of 2014 filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records of the 1st respondent in G.O.(2T)No.78 dated 06.09.2013 and quash the same.

W.P.No.35377 of 2013

For Petitioner : Mr.R.Ramesh
For Respondents : Mr.S.Ravikumar
Special Government Pleader
for R1 to R3
Ms.P.Charushree, for R4

W.P.No.31606 of 2014

For Petitioner : Ms.P.Charushree
For Respondents : Mr.S.Ravikumar
Special Government Pleader
for R1 & R2
Mr.R.Ramesh, for R3

COMMON ORDER

In W.P. No.35377 of 2013, the petitioner challenges the order dated 06.09.2013 passed by the first respondent, whereby the order of dismissal dated 06.01.2012 issued by the second respondent, confirming the order dated 21.04.2010 passed by the third respondent dismissing the petitioner from service, was modified and substituted with removal from service.

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2. In W.P. No.31606 of 2014, the Bank challenges the order dated 06.09.2013 passed by the first respondent, whereby the order of dismissal was modified and substituted with removal from service.

3. The petitioner joined service as a Clerk in the fourth respondent Bank on 11.01.1989 and was promoted as Secretary on 01.06.1993. The petitioner claims to have filed a complaint before the District Collector against the Board of Directors alleging various illegalities and irregularities, which allegedly resulted in one of the Directors assaulting him. According to the petitioner, on account of the said complaint, the Board of Directors victimised him by falsely alleging that he had absconded from service from 01.01.1998 to 05.06.1998 and, by Resolution dated 06.06.1998, terminated him from service.

4. The petitioner challenged the order dated 06.06.1998 before the Deputy Commissioner under the Tamil Nadu Shops and Establishments Act, 1947 (hereinafter referred to as “the said Act”). By order dated 03.12.2001,



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the Deputy Commissioner of Labour set aside the termination order and directed the Bank to reinstate the petitioner into service.

5. On 18.05.2007, the petitioner was placed under suspension and the order of suspension was subsequently extended. Thereafter, the petitioner filed W.P. No.20973 of 2008 seeking payment of subsistence allowance from 18.05.2007. This Court directed the Bank to pay the subsistence allowance pending disposal of the writ petition. On account of non-compliance, the petitioner filed Contempt Petition No.304 of 2009.

6. In the meantime, the third respondent issued a charge memo dated 25.08.2008 containing two charges. The first charge alleged that the petitioner failed to hand over the records, thereby stalling the functioning of the Bank. The second charge related to dereliction of duties and responsibilities. The petitioner submitted his explanation dated 24.11.2006 and furnished a list of documents which, according to him, had not been handed over to him.



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7. By order dated 15.06.2009, this Court directed the fourth respondent Bank to pay the subsistence allowance and restrained it from passing final orders until compliance. An amount of Rs.1,43,000/- towards subsistence allowance was paid only on 07.04.2010.

8. Subsequently, the Enquiry Officer conducted the enquiry and submitted a report holding that the charges against the petitioner stood proved. The petitioner challenged the findings of the Enquiry Officer. Thereafter, the third respondent passed an order terminating the petitioner from service, which was confirmed by the second respondent/Appellate Authority. Subsequently, the first respondent modified the punishment of dismissal to that of removal from service.

9. Mr.R.Ramesh, learned counsel appearing for the petitioner in W.P. No.35377 of 2013 and for the third respondent in W.P.No.31606 of 2014, submitted that for the very same set of allegations, the petitioner had earlier been terminated from service and the said order of termination was set aside by the Deputy Commissioner of Labour. The said order has attained finality



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and, pursuant thereto, the petitioner was reinstated into service. He further submitted that the charge memo issued was vague and lacked specific particulars. According to him, the enquiry was conducted in violation of the principles of natural justice and the charges were not proved by any cogent evidence. Therefore, the impugned order of termination, which was subsequently modified and substituted with an order of removal from service, is not legally sustainable as it suffers from arbitrariness and illegality.

10. In response, Mr. S. Ravi Kumar, learned Special Government Pleader appearing for the State, submitted that in the preliminary enquiry, the petitioner had categorically admitted that he had withheld certain documents and that, on account of such non-production, the functioning of the Bank had come to a standstill. He contended that in view of the petitioner's admission, the impugned order does not warrant any interference. He further submitted that the first respondent, after affording an opportunity of hearing, modified the punishment of dismissal to removal from service. It was also submitted that the documents in the custody of the



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petitioner were secured only after obtaining appropriate orders from the jurisdictional Magistrate, who had directed breaking open of the lock for the purpose of securing the documents. Therefore, in the absence of any arbitrariness or perversity in the findings recorded by the Enquiry Officer, the impugned order does not warrant interference.

11. The arguments advanced by the learned counsel appearing on either side and the materials available on record have been duly considered. The facts, as narrated above, are not in dispute and are therefore not reiterated.

12. The earlier order of termination dated 06.06.1998, passed on the ground that the petitioner had absconded from duty from 01.01.1998 to 05.06.1998 without permission, was set aside by the Deputy Commissioner of Labour under the said Act. The said order attained finality and, in terms thereof, the petitioner was reinstated into service. In the preliminary enquiry conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, it is alleged that the petitioner deposed that he was willing to submit



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the registers subject to payment of salary for the period from 01.07.1997 to 09.09.2005. Based on the said deposition, a show cause notice was issued calling upon the petitioner to explain as to why departmental proceedings should not be initiated in respect of the two charges. However, the petitioner did not submit any reply to the show cause notice, necessitating the third respondent to initiate departmental proceedings against him.

13. Before the Enquiry Officer, the third respondent neither produced any documents nor examined any witnesses to substantiate the allegations against the petitioner. The petitioner, however, submitted his defence by way of an oral statement contending that subsistence allowance had not been paid to him in terms of the order dated 27.08.2008 passed by this Court in M.P. No.3 of 2008 in W.P. No.20973 of 2008. The petitioner further sought furnishing of the list of witnesses and documents allegedly handed over to the Secretary-in-charge during the period when he was under suspension. He stated that upon payment of subsistence allowance and furnishing of the relevant documents, he was willing to submit a detailed explanation.



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of income and expenditure for the period from 01.01.1998 to 08.09.2005 were neither submitted nor handed over to him, as a result of which the financial position of the Bank could not be ascertained.

16. The petitioner further contended that the enquiry was vitiated for non-payment of subsistence allowance and that, despite specific directions issued by this Court, the fourth respondent failed to comply in a timely manner. He reiterated that no witnesses were examined and no documentary evidence was produced to substantiate the charges and that the findings of the Enquiry Officer were based solely on his alleged deposition in the preliminary enquiry, wherein he had stated that he would hand over the documents subject to payment of arrears of salary.

17. The third respondent, after considering the Enquiry Report and the further explanation submitted by the petitioner, and based on the decision of the General Standing Committee, passed an order dismissing the petitioner from service. It was observed therein that the petitioner had acted irresponsibly by wilfully and wantonly retaining the books, registers and



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other relevant documents in his custody, thereby affecting the goodwill of the Bank and the welfare of its members. It was further observed that loan amounts meant for disbursement to agriculturists were not disbursed in a timely manner on account of the petitioner's conduct.

18. However, before the Enquiry Officer, the Bank neither examined any witnesses nor produced any documentary evidence to substantiate the allegation that the petitioner had acted in an irresponsible manner, thereby stalling the functioning of the Bank, causing hindrance to its activities and indulging in irregularities. The Enquiry Officer, relying solely upon the statement allegedly made by the petitioner during the preliminary enquiry, concluded that the charges stood proved. The third respondent and the General Standing Committee, while accepting the Enquiry Report, did not advert to the further explanation submitted by the petitioner and assigned no independent reasons for rejecting the same.

19. It is a settled principle of law that punishment in a departmental enquiry can be sustained only when the foundational requirements of a valid



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charge memo, adherence to the principles of natural justice, proof of charges by legally admissible evidence and independent application of mind by the Disciplinary Authority are strictly complied with. Any infraction of these essential requirements vitiates the entire disciplinary proceedings and renders the order of punishment liable to be set aside. In the present case, the impugned order does not satisfy these essential legal requirements and is therefore not legally sustainable.

20. It is equally well settled that allegations must be proved by cogent oral and documentary evidence. In the instant case, no such evidence was adduced by the Bank to substantiate the charges. It is pertinent to note that the earlier order of termination dated 06.06.1998 was set aside by the Deputy Commissioner of Labour and had attained finality. No liberty was reserved to the Bank to initiate fresh proceedings on the very same allegations. The imputations relate to the period from 01.07.1997 to 05.06.1998 and thereafter till 2005.

21. A perusal of the charge would indicate that the allegation against



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the petitioner is that he wilfully retained books and registers and stated in his explanation dated 24.11.2006 that he would hand over the documents only upon payment of salary for the period from 01.07.1997 to 09.09.2005. However, the charge memo does not disclose specific particulars of the documents allegedly retained. In his statement dated 24.11.2006, the petitioner merely stated that he was willing to return the documents in his custody upon settlement of arrears of salary for the period from 1997 to 2005. Though the reinstatement order was passed in 1998, the petitioner was actually reinstated only in 2005. In such circumstances, the petitioner cannot be faulted for seeking payment of arrears of salary for the said period.

22. Further, the fourth respondent Bank has not placed any material on record to show that any specific demand was made upon the petitioner to return the documents in terms of his statement dated 24.11.2006. No evidence has been produced to establish that the alleged withholding of documents resulted in stalling of the Bank's functioning or caused hardship to customers or monetary loss.



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23. In any event, the order of termination does not satisfy the requirements of fairness and transparency and is in violation of the principles of natural justice. The second respondent, who is the Appellate Authority, confirmed the order of dismissal without properly considering these aspects. Likewise, the first respondent, instead of independently examining the matter in its proper perspective, merely modified the punishment of dismissal to that of removal from service without addressing the foundational infirmities in the disciplinary proceedings.

24. In the light of the foregoing discussion, this Court is of the considered view that the respondent Bank has failed to establish, by cogent evidence, that the functioning of the Bank was stalled and that customers were put to hardship or that any monetary loss was occasioned on account of the alleged withholding of documents by the petitioner. Further, the enquiry stands vitiated for non-payment of subsistence allowance, despite specific directions issued by this Court. The materials on record indicate that the petitioner was subjected to disciplinary proceedings only to victimise and harass him.



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25. Furthermore, the subsistence allowance was paid only after the conclusion of the enquiry and pursuant to the order passed in the Contempt Petition, which clearly indicates that the respondent Bank was bent upon harassing the petitioner to the maximum extent. Non-payment of subsistence allowance during the period of suspension vitiates the disciplinary enquiry, as it amounts to a violation of the principles of natural justice. An employee under suspension is entitled to subsistence allowance to enable him to sustain himself and effectively participate in the enquiry proceedings. Denial of such allowance deprives the employee of a reasonable opportunity to defend himself, thereby rendering the entire enquiry arbitrary and legally unsustainable.

26. It is brought to the notice of this Court that the petitioner has retired from service on attaining the age of superannuation in the month of February 2025.

27. In light of the foregoing discussion, this Court is of the view that



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the order of removal from service is not legally sustainable and is liable to be quashed. The petitioner is entitled to all consequential benefits, including monetary benefits, flowing from this order. However, the back wages are restricted to 30%, in view of the financial constraints expressed by the Bank and the fact that the petitioner has since retired from service.

28. Accordingly, W.P. No.35377 of 2013 is allowed. The order dated 06.09.2013 bearing reference G.O. (2D) No.78 issued by the first respondent, the order dated 06.01.2012 bearing reference No.Na.Ka.88744/2011/Sapa.1 issued by the second respondent and the order dated 21.04.2010 bearing reference No.Na.Ka.1768/2007/Aa1 issued by the third respondent are set aside. W.P. No.31606 of 2014 stands dismissed.

29. The fourth respondent Bank is directed to pay 30% of the arrears of salary from the date of dismissal, i.e., 21.04.2010, till the petitioner attained the age of superannuation in February 2025. The fourth respondent is also directed to compute the pension and other pensionary benefits payable to the petitioner and disburse the same. The entire exercise shall be



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completed within a period of four months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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To

1. The Principal Secretary to the State of Tamil Nadu
Co-operation, Food and Consumer Protection Department
Secretariat, Chennai-600 009.
2. The Registrar of Co-operative Societies
N.V.Natarajan Maaligai,
E.V.R.Periyar High Road
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HEMANT CHANDANGOUDAR, J.,

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