IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2026

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 27414 of 2024
&
W.M.P.No. 29921 of 2024

K.Venkittu ...Petitioner

Vs.

1)The Deputy Registrar / Administrator
Periya Kancheepuram Co-op Town Bank Ltd
Kancheepuram

2) The Joint Registrar
T.N. Co-op Society
Kancheepuram Region,
Kancheepuram

3) The Registrar of Co-op Societies
Kilpauk,
Chennai 10 ...Respondents

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorari, calling for the records of the 1st respondent in connection with the impugned order passed in Proc.No.3/2019 M.D dated 27.02.2019 and confirmed by the 2nd respondent in his Na.Ka.No.2944/2019/SR dated 14.01.2020 and quash the same.

For Petitioner	:	Mr. K.Venkataramani Senior Counsel For Mr. M.Muthappan
For Respondent 1	:	Mr. T.M.Rajangam Government Advocate
For Respondents 2 & 3	:	Mr. R.U.Dinesh Raj Kumar Additional Government Pleader

O R D E R

This writ petition is filed for the following relief:

"To call for the records of the 1st respondent in connection with the impugned order passed in Proc.No.3/2019 M.D dated 27.02.2019 and confirmed by the 2nd respondent in his Na.Ka.No.2944/2019/SR dated 14.01.2020 and quash the same."

2. It is the case of the petitioner that he had entered the service of the 1st respondent bank on 09.06.1993. The petitioner at that point in time is qualified to hold the said post. It is the petitioner's case that one Harikrishnan, senior to the petitioner who was serving as Assistant was appointed to the service on 23.02.1983. The petitioner is now serving as Assistant in-charge of the post of Branch Manager, Periya Kancheepuram Town, Co-operative Bank, Orikki Branch.

3. The petitioner would submit that as early as in the year 2017, he had attained sufficient seniority for being considered for promotion to the post of Manager. However, overlooking him his junior one A.Sriraman was promoted and he was further promoted as Assistant General Manager on 01.12.2021. The petitioner's claim was deferred on the ground that he was involved in a criminal case registered in Cr.No.2 of 2017 on the file of CCIW CID, Kancheepuram, on an allegation that he along with Chief Cashier and General Manager and others had purchased certain articles for the bank and misappropriated funds in collusion with the others.

4. Pending the criminal case, a disciplinary proceedings has been initiated against the petitioner on the ground that he had caused financial loss to the bank with reference to the purchase of rexine gift bags to the tune of Rs.2,74,750/-. He was proceeded for an enquiry under Section 81 of the Cooperative Societies Act and thereafter only a charge memo came to be issued containing three charges. The petitioner denied the charges and an Enquiry Officer was appointed. The Enquiry Officer conducted an oral enquiry and held that the charges against the petitioner stood proved.

5. The petitioner would submit that while he was working as a Branch Manager of Gangaikondan Mandabam Branch of Cooperative Bank, on 03.03.2016 at about 12 pm, sub staff Srinivasan had handed over a transfer order transferring the petitioner to the Head Office as a Chief Cashier. The petitioner thereafter handed over charge to the Branch Manager, A.Sriraman and took charge as Chief Cashier from S.Velumani. Velumani intrun took charge of the post of General Manager of the Bank.

6. The petitioner was informed by the said Velumani that they had purchased 6000 rexine bags to be given to the shareholders of the bank and requested him to sign the papers. The petitioner had enquired as to whether the 6000 bags had received and he was assured by the General Manager that the 6000 bags were received and the same was brought to the knowledge of the President of the bank. The President of the bank had also admitted receipt of the said bags. Thereafter, believing the above submissions, the petitioner had signed the file on 03.03.2016. During the Section 81 enquiry, a retired employee of the bank A.Venkatesan had admitted that the bank had received 6000 rexine bags and the same was signed by the President of the Bank on 03.03.2012.

7. The petitioner would submit that the purchase had taken place even before he had taken charge as Chief Cashier and it appears to be a planned conspiracy between the President and the General Manager.

8. The second charge against the petitioner was that he had issued a cheque for a value of 2000 rexine backs without even receiving the same and this has caused a loss to the bank. The petitioner would submit that the cheque was signed only on the assurance of the General Manager and the President. The petitioner would submit that he was not even aware of the purchase of the bags and he has only signed the cheques on the instruction of the General Manager and the President.

9. The Enquiry Officer had held against the petitioner and the petitioner was thereafter directed to submit his further representation to the EO's report. The disciplinary authority, namely, the Managing Director held that the petitioner had assumed office only on 03.03.2016, however, observed that the petitioner should have verified the facts before signing the cheque and ultimately held that the charges were proved. This order was taken on review before the 2nd respondent and the 2nd respondent confirmed the same by order dated 14.01.2020.

10. The petitioner would submit that with same set of facts a criminal case was registered against the petitioner, the retired President of the Bank, Velumani, General Manager, Office Assistant, A.Venkatesan, Sampath and Rajendran. They were prosecuted before the Judicial Magistrate I, Kancheepuram, in CC.No.198 of 2017. After trial, it was held that the charges against the petitioner was not proved and he was honourably acquitted. The learned Judicial Magistrate I had observed that since the petitioner has blamed the Managing Director for the offence, the criminal case was foisted for wrecking vengeance.

11. In the departmental proceedings, the petitioner was imposed with a punishment of stoppage of increment for 6 months without cumulative effect by orders of the Managing Director. The petitioner preferred an appeal to the Joint Registrar of Cooperative Societies, invoking Rule 152 of the Act and the same was dismissed on 14.01.2020. Thereafter, a criminal case was ended in acquittal on 23.02.2023.

12. The petitioner had subsequently made a representation on 14.10.2023, to promote him on par with his senior Harikrishnan for which there was no response. Thereafter, the petitioner made representations on 14.02.2023 and 03.05.2023, requesting that he be granted promotion on par with his senior.

13. The petitioner would submit that not stopping with these proceedings, a surcharge proceedings was also initiated against the petitioner and it was in these proceedings that it was concluded that the petitioner and the others are responsible for the loss sustained by the bank to the tune of Rs.3,20,300/-, being the value of 2000 rexine bags. An appeal was preferred before the Cooperative Tribunal and the same is pending. The petitioner has challenged the order of stoppage of increment in this writ petition.

14. The 1st respondent has filed a counter affidavit inter alia contending that in domestic enquiry the charges against the petitioner was proved and the punishment was imposed only after following due

procedure. The acquittal in crime case does not automatically exonerate the petitioner from departmental proceedings.

15. The 1st respondent would further submit that the surcharge order issued under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, fastening liability on the petitioner was pending and as the petitioner has failed to remit the said amount, he is not entitled to promotion. The 1st respondent would further submit that the petitioner was given adequate time for putting across his case.

16. An additional counter affidavit has been filed by the 1st respondent stating that the petitioner had an alternate remedy in the form of an appeal before the Joint Registrar and thereafter a revision before the Secretary to Government and only after these remedies were exhausted, the petitioner could rush to invoke the writ jurisdiction.

17. The 2nd respondent has filed a counter affidavit more or less on the same lines as the counter and additional counter affidavit filed by the 1st respondent.

18. The 2nd respondent would submit that the petitioner's turn for promotion came up only in the year 2016. They would also contend that the criminal proceedings and disciplinary proceedings would operate on different fields. The order of Criminal Court would not affect the final orders passed in the disciplinary proceedings. They would further contend that the surcharge order is still in force and an appeal filed by the petitioner is pending.

19. Heard the rival submissions and perused the records.

20. The departmental proceedings has been initiated only on the basis of the surcharge proceedings. The surcharge proceedings and the disciplinary proceedings are in respect of the very same offence. The Appellate Court, namely, the Principal District Judge, Kancheepuram after a detailed consideration of the evidence on record and arguments of the counsels had taken note of the Judgement of the Judicial Magistrate I in CC.No.198 of 2017, wherein the learned Judicial Magistrate I had observed that a false case had been initiated against

the petitioner. The learned Principal District Judge has thereafter passed the following order:

> *"Therefore, the order passed by the 1st respondent seems to be capricious and there is no logical reason rendered by the 1st respondent. Further, the order in question does not have a sound or logical foundation and lacking in connection to the facts and circumstances and the decision rendered by the 1st respondent is unjust and unreasonable. The action rendered by the 1st respondent is not within the purview of legal mandate. The exercise of power by the 1st respondent seems to be improper and not within the scope of the authority under the provisions of Tamilnadu Co-operative Societies Act, 1983. Therefore, the challenge made by the appellant / aggrieved party is having force. In this circumstances, there is no sufficient material available to initiate surcharge proceedings as per Section 87 (1) of the Tamilnadu Co-operative Societies Act, 1983 and the surcharge order is liable to be set aside. The point is answered accordingly."*

21. The surcharge proceedings have been allowed in favour of the petitioner. Further, the learned Principal District Judge had considered the evidence on record which included judicial order in CC.No.198 of 2017. The respondents have contended that the petitioner is not entitled to the relief in the writ petition by contending that the surcharge proceedings is pending. The surcharge proceedings having gone in favour of the petitioner and the same not having been set aside to date, the order impugned has to be quashed, more particularly when in the criminal case the petitioner has been honourably acquitted. Accordingly, the impugned order is quashed.

22. In the result, this writ petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

04.03.2026

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