

(2008) 07 AP CK 0040

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17305 of 2006

G. Ravindranath

APPELLANT

Vs

Anantapur District Co-operative Central Bank Ltd.

RESPONDENT

Date of Decision : 15-07-2008

Acts Referred:

Citation : (2008) 6 ALD 161 : (2008) 5 ALT 621

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : V. Jagapati, for the Appellant; O. Manohar Reddy, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner was appointed as a Messenger in the Kalyandurg Branch of Anantapur District Cooperative Central Bank Limited, the respondent herein. On finding that he held requisite qualifications, he was entrusted with the duties of Cashier, by paying additional remuneration. A sum of Rs. 15 lakhs was drawn by the Branch Manager of Kalyandurg, from the Head Office on 31.8.2004, for disbursement to the beneficiaries of Crop Insurance Scheme. However, the amount was not paid to the beneficiaries. A preliminary inquiry was conducted, and on the basis of the findings therein, a charge-sheet was issued to the petitioner, on 27.7.2005. On a consideration of the explanation submitted by the petitioner, an Inquiry Officer was appointed. He submitted a report dated 24.8.2005. The Appointing Authority accepted the report of the Inquiry Officer and issued a show-cause notice to the petitioner. Ultimately through proceedings dated 29.6.2006, the respondent terminated the services of the petitioner. The same is challenged in this writ petition.

2. Petitioner submits that he is not at all responsible for the defalcation of the collection amount of Rs. 15 lakhs, and in the proceedings initiated u/s 60 of the A.P. Co-operative Societies Act (for short "the Act"), the then Manager and another Messenger were held responsible for it. He contends that a totally

defective procedure was followed in the domestic inquiry, and that he was not given an opportunity to defend himself. An objection is raised as to the nature of punishment, pleading that termination of service does not find place in the Service Regulations

3. On behalf of the respondent, a counter-affidavit is filed, opposing the case of the petitioner. It is stated that a domestic inquiry was conducted by appointing an Inquiry Officer, and that the petitioner has participated in it. It is stated that since the petitioner made a representation to the effect that he was not given an opportunity, the then person-in-charge, asked another official to verify the record and examine the plea of the petitioner, in the context of lack of opportunity, and on that count, it cannot be said that successive Inquiry Officers were appointed. It is also stated that the petitioner has, in fact, admitted clearly that he received the amount, but did not account for it.

4. The petitioner filed a reply affidavit, denying certain facts, that were pleaded in the counter-affidavit.

5. Sri V. Jagapathi, learned Counsel, advanced arguments on behalf of the petitioner. He submits that there is nothing on record to disclose that the petitioner was appointed as Cashier, and it is unthinkable that a Messenger is entrusted with the duty of handling such huge amounts. He contends that as many as three inquiries were conducted, in the matter, in flagrant violation of the Service Regulations, and there is no consistency in the findings against the petitioner. He further submits that adequate opportunity was not given to the petitioner in the domestic inquiry. Another contention advanced by the learned Counsel is that, termination of service cannot be treated as a punishment, and the petitioner shall be deemed to be in service.

6. Sri O. Manohar Reddy, learned Counsel for the respondent, on the other hand, submits that it was clearly established in the domestic inquiry that the petitioner is guilty of charges, framed against him. He contends that the domestic inquiry was conducted through an inquiry officer, by name, Sri Krishna Mohan. He submits that a preliminary inquiry, before framing of charges was conducted by one, Mr. P.V. Ramana, and a general verification was entrusted to one K. Sydubabu. The General Manager on a representation made by the petitioner, that he was not given adequate opportunity in the domestic inquiry, held that the report submitted by the said officials cannot be treated either in supersession of the actual inquiry report. He submits that the stand of the petitioner was not consistent, and though he appeared at various stages, he pleaded otherwise. Learned Counsel contends that the punishment is imposed in clear terms, bringing about termination of appointment. As regards the entrustment with the duties of Cashier, he submits that the petitioner himself admitted in various proceedings about the nature of duties discharged by him.

7. The petitioner was appointed as Messenger in the Bank. It may sound somewhat strange, that he was entrusted with the duties of Cashier. Though the

petitioner made an attempt to convince this Court, that he has nothing to do with the post of Cashier, at more places than one, he admitted that he was discharging the functions of Cashier. For instance, in his representation dated 23.8.2005, made to the inquiry officer, he stated as under:

I am Sri Ravindranath, working as Incharge Cashier at Anantapur District Co-operative Central Bank Limited, Kalyandurg Branch from 1.7.2001, since then I am performing Cashier duties correctly....

8. In his other representations and correspondence, he has also mentioned the manner in which, he was entrusted with those duties and the remuneration for the same. Therefore, the contention of the petitioner, that he was only Messenger, and did not discharge the duties of Cashier; cannot be accepted.

9. The two charges framed against the petitioner, vide charge-memo dated 27.7.2005, read as under:

Charge No. 1 : Sri G. Ravindranath, I/c Cashier (U/s) has misappropriated the funds of the Bank to a tune of Rs. 15.00 lakhs drawn by Smt. G. Jayalakshmi, the then Manager (U/s) along with Sri B. Ramanjaneyulu, Messenger of the Branch on 31.8.2004 from Head Office conniving with the then Manager and the then Staff Assistant/I/c Manager of the Branch on 31.8.2004.

Charge No. 2 : That Sri G. Ravindranath, I/c Cashier (U/s) of Kalyandurg Branch has failed to maintain the books of accounts of the Branch properly entrusted to him i.e., Cashier scroll , single lock register and double lock register and cash book.

10. Before framing these charges, a preliminary inquiry was conducted, through one Mr. P.V. Ramana, Officer on Special Duty. The report submitted by him cannot be treated as part of the disciplinary proceedings. The reason is that the disciplinary proceedings against an employee commence, only with the service of charge-sheet, and anything preceding it, cannot be treated as part of the same.

11. The petitioner submitted his explanation, denying the charges. An inquiry officer, by name Krishna Mohan was appointed. During the course of inquiry, held on 23.8.2005, the petitioner appears to have admitted, that he has received the cash from the Manager and corrected entries in the cash-book. On 3.9.2005, the petitioner submitted a representation to the inquiry officer, stating that his admission during the course of inquiry, that he received the cash was, on account of the threat administered, to him by the then Manager. The relevant portion reads as under:

However, Sri Jayalakshmi, came to my house with her followers A. Lahhminarayana, Attender, Sirpi, P.A.E.S. and Sri T.V. Subramanyam, Attender, resident of Avulanna Society, and asked me if anyone came and asked I have to say that the said amount was received by me. Failing which I have to face several problems, that is life threat. Therefore, with the fear I said before the Enquiry Officer that I have received the said amount, it is very utter false

because of their threaten only I said like that before the Enquiry Officer. In fact, I did not receive Rs. 15 lakhs from them. Therefore, I did not write the challan.

12. Almost similar retraction was sought to be made, in respect of Charge No. 2 also. These facts are being mentioned only to point out, that the petitioner appeared before the inquiry officer, and his statements were recorded.

13. The inquiry officer submitted his report on 24.8.2005. The petitioner made a representation to the then Person-in-charge, the District Collector, alleging that he was not given adequate opportunity. With the submission of his report, the inquiry officer became a functus officio and there was no occasion to cross verify this allegation with him.

14. Therefore, with a view to be fair to the petitioner, the Collector requested the then General Manager, by name, Saidubabu, to examine the matter. The petitioner alleges or understands this step, as constituting the appointment of another inquiry officer.

15. Except that a superior officer was asked to examine the representation of the petitioner, the report submitted by the inquiry officer was not at all meddled with it, in any manner, much less, the report was superseded . At one stage, the petitioner has gone to the extent of saying that no inquiry was conducted by the inquiry officer, by name, Krishna Mohan, at all. This was reiterated in Paragraph 11 of his reply affidavit also. It has already been pointed out that not only did the petitioner appear before the said inquiry officer, on 23.8.2005, but also he made a representation on 3.9.2005, retracting from his statement made, during the course of inquiry.

16. The petitioner filed a copy of his deposition dated 23.8.2005, made before the inquiry officer. This only shows that the petitioner doe not have any regard for truth, and in his desperate attempt to cover up his lapses, he is prepared to go to any extent.

17. Much was argued about the role assigned to one Mr. Sydubabu. It has already been pointed out that the limited role assigned to him was, to verify as to whether the correct procedure was followed, and the petitioner was given adequate opportunity in the inquiry. For that purpose, the petitioner was required to appear before him, and the record discloses that the petitioner had appeared and put forward his version. The fact, however, remains that the findings on the charges levelled against the petitioner were recorded by the inquiry officer, and only those were taken into account. The petitioner is not able to demonstrate that the findings on the charges are either perverse or without any evidence.

18. Even if a second view is possible on the appreciation of the material on record, this Court cannot interfere with the findings. In matters of this nature, what becomes verifiable is the decision making process, than the decision itself. Though the petitioner raised a plea that correct procedure was not followed, this Court is satisfied that the respondents have gone an extra mile, to give more

opportunity to the petitioner, than what was required under law.

19. The petitioner sought to make out a case by stating that termination-simpliciter cannot be treated as punishment. The impugned order itself clearly shows that the services of the petitioner are terminated, by way of punishment. Whether one calls it the termination, removal or dismissal; an act through which the relationship of employer and employee is brought to an end, as a measure of punishment and as a sequel to disciplinary proceedings, cannot be treated anything, but punishment. At the most, the words employed may have any impact, as to consequences, that too, depending upon the text of the Rules. For instance, an employee, who is dismissed from service, is rendered unfit, for re-employment, whereas the one, who is removed, does not carry the said disqualification.

20. Similarly, compulsory retirement, though brings about cessation of service, would not deprive the employee, of the terminal benefits. Therefore there is no substance in the contention advanced on behalf of the petitioner, in this regard.

21. For the foregoing reasons, the writ petition is dismissed. There shall be no order as to costs.