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HIGH COURT OF CHHATTISGARH AT BILASPUR

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WPS No. 543 of 2016

1 - Zila Sahakari Kendriya Bank Maryadit Jagdalpur, Through Chief Executive Officer, Zila Sahakari Kendriya Bank, Maryadit, Jagdalpur, Distt. Bastar, Chhattisgarh, Chhattisgarh
... **Petitioner**

versus

1 - R. P. Tiwari S/o Shri Bal Govind Tiwari, R/o Priya S T D P C O, Pratapganj Para, Jagdalpur, Distt. Bastar Chhattisgarh, Chhattisgarh

2 - Chhattisgarh State Co-Operative Tribunal, Through The Registrar, Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

3 - The Joint Registrar, Co-Operative Societies, Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

4 - The Deputy Registrar, Co-Operative Societies, Jagdalpur, Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

... **Respondent**

For Petitioner	:	Mr. Tanmay Thomas on behalf of Mr. Keshav Dewangan, Advocate
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Hon'ble Shri Justice Sachin Singh Rajput

Order on Board

07.08.2025

1. Heard on admission.
2. Facts of the present case in a nutshell is that the present petition is being filed challenging the orders dated 11.10.2011, 06.03.2013, and 24.02.2015. Respondent No. 1, who was working with the petitioner on the post of Lower Division Clerk, had taken certain advances for the purposes of different schemes. Though a part of the said amount was deposited, the remaining

balance along with the requisite vouchers was not deposited in the Bank, and the aforesaid amount was misappropriated by him for personal gain, thereby committing embezzlement. After a full-fledged departmental enquiry, respondent No. 1 was removed from service. The said order of removal was challenged by him before respondent No. 4, who allowed the dispute. The order of the Deputy Registrar was further assailed before the First Appellate Authority and thereafter before the Second Appellate Authority. However, the appeals preferred by the petitioner were dismissed. All the authorities held that since the advance had been made in contravention of the rules relating to recovery, the same appeared to be suspicious. It was further observed that no proper opportunity of hearing had been afforded to Respondent No. 1, and consequently, the order of termination was set aside. The adjudicatory authorities have erred in setting aside the termination merely on the ground that there was violation of rules by the petitioner, without appreciating that such a finding amounts to granting undue benefit to a delinquent employee. Once the authorities came to the conclusion that there were lacunae in the departmental enquiry, the matter ought to have been remanded to the disciplinary authority to cure such defects and to proceed with the enquiry from the stage where the infirmity was noticed. Hence, this petition.

3. Learned counsel for the petitioner submits that the petitioner is a Co-operative Society engaged in banking business under a licence issued by the Reserve Bank of India. Respondent No. 1, an ex-employee of the petitioner, was posted as a Lower Division Clerk on daily wages. He submits that under the scheme of the petitioner-Society, respondent No. 1 obtained an advance of Rs. 62,176.25/- during the period from 27.10.1986 to 14.06.1994, out of which he deposited only a sum of Rs. 9,498.25/-. The balance amount of Rs. 52,677.35/- remained unpaid despite repeated demands. Consequently, a show cause notice

was issued to respondent No. 1, and thereafter, a departmental inquiry was conducted, which culminated in the termination of his services vide order dated 29.02.2008 (Annexure P/1). The said termination order was challenged by respondent No. 1 under Section 52 of the Co-operative Societies Act, 1960 (for short, the Act of 1960) before respondent No. 4. Respondent No. 4, by its order dated 11.10.2011 passed in Appeal Case No. 77(1)923/J/11 (Annexure P/2), allowed the appeal, set aside the termination order dated 29.02.2008, and reinstated respondent No. 1 in service, though without granting back wages. He submits that being aggrieved, the petitioner preferred an appeal under Section 77(1) of the Act of 1960 before respondent No. 3. However, after hearing the parties and considering the material on record, respondent No. 3, vide order dated 06.03.2013, dismissed the petitioner's appeal and affirmed the order of respondent No. 4 dated 11.10.2011. Still dissatisfied, the petitioner preferred a second appeal before the Chhattisgarh State Co-operative Tribunal, Bilaspur, which was registered as Appeal Case No. 60/2014. The learned Co-operative Tribunal, by its order, dismissed the said appeal and upheld the order of respondent No. 3, thereby affirming the reinstatement of respondent No. 1. He further submits that challenging the aforesaid concurrent orders, the present writ petition has been filed. He further submits that the findings recorded by the authorities below are perverse, contrary to the record, and have been passed without proper appreciation of the arguments advanced on behalf of the petitioner. It is, therefore, urged that the impugned orders deserve to be set aside and the order of termination dated 29.02.2008 deserves to be upheld.

4. Heard learned counsel for the petitioner and perused record.
5. Perusal of the record indicates that initially after conclusion of the departmental inquiry, a punishment of termination was imposed upon

respondent No. 1. The said order of termination was challenged by respondent No. 1 before respondent No. 4 under the provisions of the Act of 1966. Upon due appreciation of the material available on record and assessment of the evidence adduced, respondent No. 4 allowed the case of respondent No. 1 and directed his reinstatement in service. This order was further challenged on two occasions first before respondent No. 3, and thereafter before the Co-operative Tribunal. Both authorities, however, declined to interfere and affirmed the finding of reinstatement in favour of respondent No. 1. Since three authorities have concurrently recorded categorical findings of fact against the petitioner, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India to disturb the said concurrent findings.

6. In view of the foregoing discussion, this petition is devoid of merit and is hereby **dismissed**.

Sd/-
(Sachin Singh Rajput)
Judge

H.Ansari