

W.A(MD)No.746 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.746 of 2023
and
C.M.P(MD)No.6353 of 2023**

1.The Registrar of Cooperative
Societies,
Kilpauk,
Chennai – 10.

2.The Joint Registrar of Cooperative
Societies,
Thanjavur.

... Appellants /
Respondents

Vs.

M.S.Rajendran

... Respondent /
Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order of the learned single Judge made in W.P(MD)No.15038 of 2015 dated 29.03.2022 and allow the writ petition.

For Appellants : Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent : Mr.R.Velmurugan



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W.A(MD)No.746 of 2023

JUDGMENT

(By G.R.SWAMINATHAN, J.)

The department has filed this Appeal questioning the order dated 29.03.2022 passed by the learned single Judge allowing W.P(MD)No.15038 of 2025 filed by the respondent herein (hereinafter referred to as the writ petitioner).

2.The writ petitioner joined the Co-operative Department as Junior Assistant in the year 1985 and rose to the rank of Co-operative Sub-Registrar. He reached the age of superannuation on 31.07.2017. Prior to his retirement, he was issued with a charge memo dated 19.09.2011. It contained two articles of charge. The first charge was that the writ petitioner failed to intimate the department that his wife was running a medical shop. The second charge was that the appellant failed to obtain prior permission for acquiring immovable property in the name of this wife. Enquiry was conducted and both the charges were held to be proved. Finally vide order dated 20.10.2014, the punishment of reversion was imposed on the writ petitioner. Challenging the same, the writ petitioner filed W.P(MD)No.15038 of 2015. The learned single Judge allowed the writ petition in the following terms:



W.A(MD)No.746 of 2023

WEB COPY

“5. It is an admitted fact that the petitioner married one Karpagam in the year 1990. The said Karpagam is a qualified D.Pharm and she has passed in the year 1987 and registered the same in Tamil Nadu Pharmacy Counsel on 17.11.1987. The contention of the petitioner is that his wife on her personal capacity, started a medical shop in the year 1996 and she has purchased a shop in Door No.33 for a sale consideration of Rs.7,15,000/-(Rupees Seven Lakhs Fifteen Thousand only) on 22.06.2006. The allegation against the petitioner is that the petitioner is running a medical shop and he has purchased a property with his own name and he has not intimated the fact of running a medical shop and purchasing a property. The contention of the petitioner is that the petitioner is not running a medical shop, but his wife is running a medical shop and based on her own earnings, his wife had purchased the property for medical shop.

6. This Court is of the considered opinion, when the petitioner's wife is having an independent qualification of D.Pharm and she has every right to pursue that vocation. The petitioner's wife is running the Medical Shop in her own name and in her own personal capacity. Since because the petitioner's wife is running a medical shop, it cannot be attributed that the petitioner is running a medical shop. The petitioner has circulated the assets and liabilities, balance sheet and Income Tax Returns for 2002-2006. It is shown in

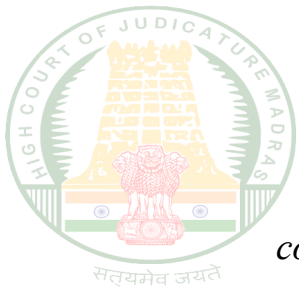


W.A(MD)No.746 of 2023

WEB COPY

the document that the petitioner has availed Bank Loan from State Bank of India for purchase of property. The petitioner's wife is running a medical shop for the past 14 years. Therefore, it can be safely concluded that the petitioner's wife has obtained house loan from State Bank of India based on her personal financial status by running a Medical Shop and from that income, she has purchased the property. The respondents cannot fasten any allegation without evidence that the petitioner has purchased the property. The respondents have over stepped their limits and initiated the proceedings. The petitioner is already 56 years old at the time of filing this writ petition. He has already attained superannuation. Based on the criminal proceedings, the petitioner was not granted any terminal benefits. The learned Government Advocate submitted that there is an alternative remedy before the Registrar and the petitioner has already availed the alternative remedy.

7. However, this Court is of the considered opinion that even if there is an alternative remedy, the petitioner is 56 years old at the time of filing this writ petition and has attained superannuation. The petitioner need not undergo unnecessary litigations before any authorities. This Court is entertaining the writ petition and the impugned order is set aside and the respondents are directed to fixing the petitioner to his original post i.e., Sub-Registrar and pay all attendants benefits to the post. The said exercise shall be



W.A(MD)No.746 of 2023

completed within a period of six weeks from the date of receipt of a copy of this order.”

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3.The questions that calls for consideration are two fold:

- a) Whether the writ petitioner can be held guilty of having committed the delinquencies attributed to him; and
- b) Whether the punishment imposed on the writ petitioner can be said to be proportionate to the charges proved.

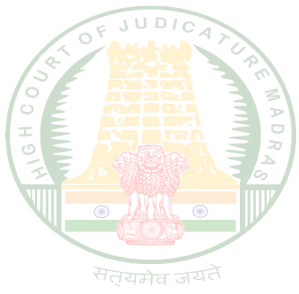
4.Rule 7(1)(a) of the Tamil Nadu Government Servants' Conduct Rules, 1973 reads as follows:

“7. Movable, immovable and valuable property -

(1) (a) No Government servant shall, except after notice to the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member his family.

Such a notice will be necessary even where any immovable property is acquired by any member of the family of the Government servant out of the resources of the Government servant:

Provided that the previous sanction of the prescribed authority shall be obtained if any such transaction is with a



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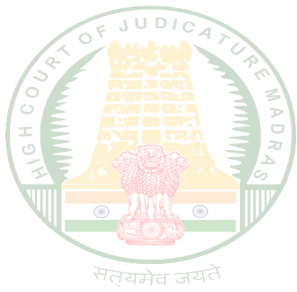
W.A(MD)No.746 of 2023

person having official dealings with the Government servant.

Provided further that the previous sanction of the prescribed authority shall not be necessary for the acquisition of immovable property in respect of house-site assigned by the Government to the Government servant.

Explanation - A Government servant is not required to give notice to the prescribed authority or seek prior permission from the prescribed authority for acquisition or disposal of immovable properties by the members of his family under clause (a), if the immovable property in question is not acquired from the resources of the Government servant concerned.”

5.The learned Additional Government Pleader would argue that the aforesaid Rule is attracted to the case on hand. The Rule states that if any family member acquires any immovable property out of the resources of the Government servant, then obtaining prior permission is required. In the case on hand, the writ petitioner's wife is a holder of D.Farm degree. She acquired the degree in the year 1987 itself. She is also running a medical shop since 1996. It is thus obvious that the writ petitioner's wife has sufficient means and funds to acquire a property on her own. It is also seen that she had availed loan from State Bank of India in her name. We are therefore of the view that the second charge levelled against the writ petitioner is not made out.



W.A(MD)No.746 of 2023

WEB COPY 6. However, Rule 8(1)(b) of the Tamil Nadu Government Servants'

Conduct Rules, 1973 reads as follows:

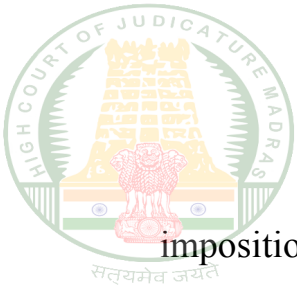
“8.Private trade or employment

(b) Every Government servant shall, if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency, report the fact to the Government:

Provided that, if it is found that the trade or business is of such a nature that the association of a member of the Government servant's family in that trade or business can embarrass either the Government servant concerned or the Government, then the Government servant shall not permit the said member of his family to continue his association with the trade or business in question.

Explanation - Canvassing by a Government servant in support of any trade, business, insurance agency or commission agency engaged in owned or managed by any member of his family shall be deemed to be a breach of this sub-rule.”

The writ petitioner was obliged to have informed the Government that his wife is engaged in business. He had not done so. Therefore, the finding of the enquiry authority that the writ petitioner had committed misconduct attracting the aforesaid provision is sustained. However, for this lapse of non-intimation,

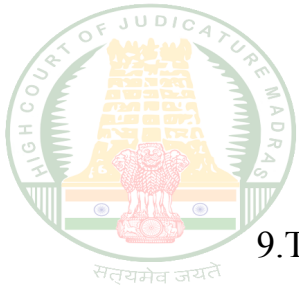


W.A(MD)No.746 of 2023

imposition of punishment of reversion by one rank appears to be grossly disproportionate. In fact, it shocks our conscience.

7.We, therefore, modify the order of the learned single Judge. At the same time, we set aside the order dated 20.10.2014 passed by the disciplinary authority insofar as it relates to the finding of guilt in respect of article 1 and the imposition of punishment. The matter is remitted to the file of the Joint Registrar of Co-operative Societies, Thanjavur to revisit the issue of punishment and pass a fresh order. Such an order shall be passed by the Joint Registrar, Co-operative Societies, Thanjavur after putting the writ petitioner on notice within a period of twelve weeks from the date of receipt of a copy of this order.

8.The learned single Judge had directed the department to pay all the attendant benefits to the writ petitioner. The learned Additional Government Pleader states that the writ petitioner is still under suspension and he has been retained in service on account of pendency of two other disciplinary proceedings and implication in a vigilance case. Therefore, the direction to disburse the benefits set out in paragraph no.7 is set aside.



W.A(MD)No.746 of 2023

9.This Writ Appeal is partly allowed. There shall be no order as to costs.

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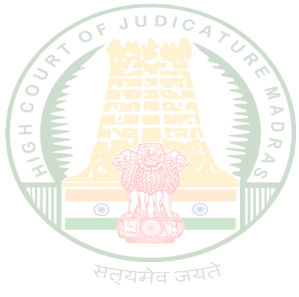
Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
05.08.2025

NCC : Yes / No
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To

The Joint Registrar, Co-operative Societies,
Thanjavur.



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W.A(MD)No.746 of 2023

G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

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W.A(MD)No.746 of 2023

05.08.2025