

WP(MD). No.8740 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29/07/2026

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

WP(MD). Nos.8740 and 8741 of 2026

and WMP(MD)Nos.7062,7063 and 7066 of 2026

In WP(MD)No.8740 of 2026:

D.Subramanian

... Petitioner

Vs

1. The Joint Registrar of Cooperative Societies,
Office of the Joint Registrar of
Registrar of Co-Operative Societies,
Madurai.

2. The Deputy Registrar of Cooperative Societies,
Madurai Circle,
Madurai.

3. The President,,
A2982, Pallapatti Primary Agricultural
Co-Operative Credit Society, Pallapatti,
Melur Taluk, Madurai District..

4. The Administrator,,
2997, Melavalavu Primary Agricultural
Co-Operative Credit Society, Melavalavu,
Melur Taluk, Madurai District.

... Respondents



WP(MD). No.8740 of 2026

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIORARIFIED MANDAMUS calling for the records pertaining to the charge memos issued by the 1st Respondent in Na.Ka. No.5025/2024/Tho. Va. dated 06.11.2024, in Na.Ka.No.2492/2025/Tho. Va. (Po.Pa.Nidhi) dated 27.05.2025, in Na. Ka.No.6306/2021/Tho. Va. (Po. Pa. Nidhi) dated 27.05.2025 and in Na. Ka.No.2493/2025/Tho.Va.(Po. Pa. Nidhi)(2) dated 27.05.2025 and quash all the same proceedings and consequently directing the Respondents to permit the Petitioner, allow him to retire from service and disburse all retirement benefits within time stipulated by this Court.

In WP(MD). No.8741 of 2026:

D.Subramanian

... Petitioner

Vs

1. The Joint Registrar of Cooperative Societies,
Office of the Joint Registrar of
Registrar of Co-Operative Societies,
Madurai..

2. The Deputy Registrar of Cooperative Societies,
Madurai Circle,
Madurai..

3. The President,
A2982, Pallapatti Primary Agricultural
Co-Operative Credit Society, Pallapatti,
Melur Taluk, Madurai District..

4. The Administrator,
2997, Melavalavu Primary Agricultural
Co-Operative Credit Society, Melavalavu,
Melur Taluk, Madurai District.

... Respondents



WP(MD). No.8740 of 2026

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIORARIFIED MANDAMUS calling for the records pertaining to the impugned orders issued by the 1st Respondent in Na.Ka. No.2586/2025/Tho.Va.(1)P.Pa.Nidhi and in Na.Ka.No.2586/2025/Tho.Va.(2)Po.Pa.Nidhi dated 30.05.2025 and quash the same and consequently directing the Respondents to permit the Petitioner, allow him to retire from service and disburse all retirement benefits within time stipulated by this Court.

In both writ petitions:

For Petitioner : Mr.N. Sathishwaran

For R1 to R3 : Mr.M.Dinesh Hari Sudarsan

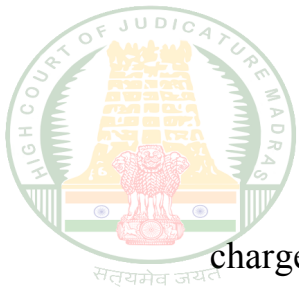
Counsel for Government of Tamil Nadu (Civil Side)

For R4 : Mr.S.Kumar

COMMON ORDER

The issue that arises for consideration in these writ petitions are one and the same and hence, they are taken up together for consideration and are being disposed of by this common order. The petitioner is also same in both the writ petitions.

2. The petitioner, having served as the Secretary of the fourth respondent Society, has attained the age of superannuation on 31.05.2025. Just before the date of superannuation of the petitioner, the first respondent issued three charge memos on 27.05.2025 and there was another charge memo that was already pending against the petitioner vide



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charge memo dated 06.11.2024. It is aggrieved by the said charge memo dated 06.11.2024 and the three charge memos dated 27.05.2025, the petitioner has filed WP(MD)No.8740 of 2026 challenging that the first respondent has no authority or jurisdiction to continue the disciplinary proceedings after the petitioner has attained the age of superannuation as there was no provision in the Common Cadre Service Rules, 2019 that would enable the first respondent either to initiate or to continue the disciplinary proceedings beyond the date of superannuation of the petitioner. Simultaneously the petitioner has also filed WP(MD)No.8741 of 2026 challenging the proceedings of the first respondent in Na.Ka. No. 2586/2025/Tho.Va.(1)P.Pa.Nidhi, whereby the petitioner was placed under suspension a day before the date on which he is supposed to attain the age of superannuation and as well as the proceedings in Na.Ka.No. 2586/2025/Tho.Va.(2)Po.Pa.Nidhi dated 30.05.2025 whereby the petitioner was not allowed to retire and his services were extended beyond the date of superannuation beyond 31.05.2025. The challenge to the impugned suspension order and extension order extending the service of the petitioner are also on the very same lines as was challenge made to the impugned charge memos in WP(MD)No.8740 of 2026.



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3. The learned counsel appearing for the petitioner has brought to the notice of this Court that an identical issue has fallen for consideration before this Court in WP(MD)No.15665 of 2026 and this Court, vide the order dated 09.07.2026, has been pleased to quash the impugned proceedings therein on the ground of jurisdiction and authority of the first respondent.

4. In response to the notice issued by this Court, the respondents 1 and 2 filed a detailed counter affidavit and the third respondent also filed a separate counter affidavit.

5. A perusal of the counter affidavit does not disclose any such power or authority conferred upon the first respondent either to continue or initiate the disciplinary proceedings beyond the date of superannuation or any rule that would enable the first respondent to extend the service of the petitioner beyond the age of superannuation or to continue the petitioner under suspension beyond the date of superannuation of the petitioner. However, paragraph No.6 of the counter affidavit makes a reference to Special Bylaw 31(4) of the respondent Society, which would



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empower the management of the Society not to permit an employee to retire from service in case of disciplinary proceedings or criminal cases are pending to ensure that the Master-Servant relationship is maintained till the conclusion of the disciplinary proceedings and for passing appropriate orders thereon. The counter affidavit also makes a reference to various orders passed under Section 87 of Tamil Nadu Cooperative Societies Act, 1983. The counter affidavit also makes a reference to various criminal cases that are pending against the petitioner and the amounts that are due from the petitioner that are withdrew from the petitioner.

6. This Court, having perused the elaborate counter affidavit filed by the respondents 1 and 2 and the counter affidavit filed by the third respondent and after having perused the order dated 09.07.2026 passed by this Court in WP(MD)No.15665 of 2026, is of the considered view that all the contentions raised by the respondents in the respective counter affidavits have already been dealt with by this Court in the order dated 09.07.2026. In this context, the relevant portion at paragraph 11 to 14 of the order dated 09.07.2026 is extracted herein under:



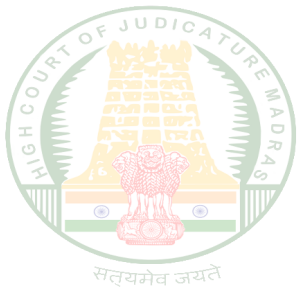
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*"11. It is not in dispute that the petitioner herein is governed by the Common Cadre Service Rules. All the contentions, that are raised by the learned counsel for the respondents, have been dealt with by the learned Division Bench in the decision dated 05.08.2025 in W.A.(MD) No.1174 of 2025 etc. batch. The learned Division Bench of this Court, having taken note of the decision of the earlier decision of another learned Division Bench of this Court, dated 28.09.2021 in W.A.Nos.2220 & 2466 of 2021, in the case of **S.307, Muthukalipatti Primary Agricultural Co-operative Credit Ltd., vs. V.Viswanathan and others**, wherein it was held that once an employee is governed by the Common Cadre Service Rules, the Special Bylaws of the Society will have no application to the said employee in the absence of any specific provision in the Common Cadre Service Rules providing for application of the Special Bylaws of the Society. The learned Division Bench also held that the objection on the ground of availability of alternative remedy of revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, is also not available as the impugned proceedings is sought to be attacked on the ground of jurisdiction. The Division Bench also in detail dealt with the Special Bylaw No.31 and came to the conclusion that the same has no application to the facts of the case therein.*

12. In the instant case also, there was no suspension of the petitioner, while he was in service so as to invoke the benefits of the Special Bylaw No.31 or it's Sub Clause (4). In the absence of suspension, it is not open for the respondents to take shelter under the Special Bylaws, if at all the same has application. As the learned Division Bench of this Court, as referred to above, has already held that the Special Bylaws have no application in the absence of any



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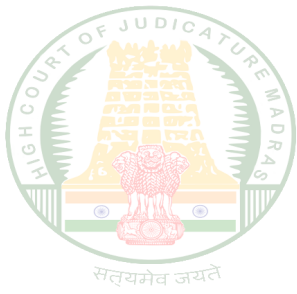
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provision providing for the same, in the instant case as well, the question of applying the Special Bylaws so as to test the validity of the impugned proceedings does not arise. In this connection, it would be appropriate to extract the relevant paragraphs of the above cited decision of the learned Division Bench of this Court hereunder:

“4. The question that calls for consideration is whether they should have been allowed to retire on their reaching the age of superannuation or placed under suspension and retained in service on the ground of their implication in criminal case. The learned single Judge quashed the orders impugned therein and allowed the writ petitions as prayed for.

5. We are of the view that the issue raised in these writ appeals is no longer res integra. The Hon'ble Division Bench vide order dated 28.09.2021 in W.A.Nos.2220 and 2466 of 2021(S.307, Muthukalipatti Primary Agricultural Co-operative Credit Ltd., V. V.Viswanathan and others) had held as follows:-

“7. Unless otherwise the bye-law provides, the employee cannot be proceeded against after retirement. This will be applicable to all categories provided they do not come under the purview of G.O. dated 12.02.2019 creating common cadre. Once he comes into the common cadre, for the incident that took place prior to 12.02.2019, the authority competent to deal with the employees in the common cadre is entitled to proceed with the enquiry, but it shall be done only in terms of the clauses mentioned in the G.O. The G.O. has nowhere stated that the employee could be continued to be kept under suspension even after attaining the age of superannuation or there is no saving clause in the G.O. that if there are any conflict between the bye-law and the G.O, the clauses that are not going to be affected by the G.O. would continue to be in operation. In the absence of the



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enabling provision to continue departmental action of those employees falling under the common cadre, even though the incident would have taken place much prior to G.O. dated 12.02.2019, in the absence of specific clause in the G.O. to proceed departmentally after retirement, the appellant cannot proceed with the departmental action against the writ petitioner.”

6. We are in respectful agreement with the aforesaid decision. The learned Additional Government Pleader appearing for the appellants submitted that the writ petitions ought to have been dismissed for non-exhaustion of alternative remedies. It is well settled that when the orders impugned in the writ petitions suffer from lack of jurisdiction, the writ petitioners need not be relegated to avail the alternative remedies but can be permitted to invoke the writ jurisdiction straightaway. It is true that as pointed out by the learned Additional Government Pleader, there is a specific provision in the special bylaws providing for retaining the employees under suspension in service even on his attaining the age of superannuation. Clause 31 of the said special bylaws reads as follows:-

“31.SUSPENSION

(1) An employee of the society may be placed under suspension from service where

(I) an inquiry into grave charges against him is contemplated or pending: or

(ii) a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest or in the interest of the society:

Provided that an employee who is detained in custody whether on a criminal charge or otherwise for a period longer than forty eight hours shall be deemed to have been suspended under this clause.



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(2) The authority competent to suspend an employee may grant to the employee suspended, subsistence allowance in accordance with the provisions of the Tamil Nadu Payment of Subsistence Allowance Act 1881:

(3) The period of suspension already undergone may also be awarded as a penalty to an employee to the extent considered necessary by the authority imposing the penalty.

(4) The employee under suspension shall not be allowed to retire on attaining the age of super-annuation. His suspension shall be deemed to have been extended till the disposal of the disciplinary proceedings against him. During the extended period, the service rights accrued to the employee shall freeze on the date of superannuation and the employee and not be entitled for subsistence allowance."

7. We are however unable to accept the said contention. This is because following the promulgation of the common cadre service rules in the year 2019, the special bylaws ceased to govern the service conditions of the Secretaries of the respective Cooperative Societies. The Hon'ble Division Bench had also indicated that amendments to the Rules are called for. Unfortunately, till date the rules have not been amended. When the common cadre did not provide for retention of the delinquent employees in service for inflicting punishment after they reach the age of superannuation, the authority will not be justified in doing so. The approach of the learned single Judge cannot be faulted. There is no merit in these writ appeals. The writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

13. By applying the above decision of the learned Division Bench, which came to the conclusion that in the absence of any



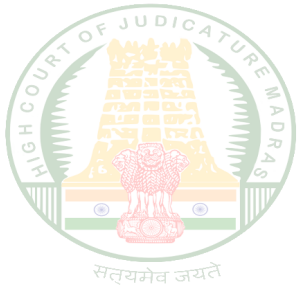
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provision in the Common Cadre Service Rules, it is not open for the respondent authority either to withhold the terminal benefits or to continue the disciplinary proceedings after the employee governed by the Common Cadre Service Rules attained the age of superannuation. The same analogy would be applicable to the facts and circumstances of the present case, wherein the petitioner was relieved from service while not permitting him to retire from service and his terminal benefits were withheld. Admittedly, there is no provision in the Common Cadre Service Rules that would enable the respondents to retain the petitioner in service and to withhold the terminal benefits payable to the petitioner. In the circumstances and taking into consideration the decision of the learned Division Bench of this Court referred to above, this Court is left with no other option except to hold that the impugned proceedings retaining the petitioner in service and withholding his terminal benefits on the ground of pendency of criminal proceedings is bound to be declared as illegal, arbitrary and without jurisdiction or authority.

14. At this stage, it would be necessary to note that on an earlier occasion, the learned Division Bench of this Court, in the order dated 05.08.2025 in W.A.(MD) No.1174 of 2025 etc. batch, has suggested for effecting necessary amendments to the Common Cadre Service Rules, in case the respondent - State intends to have the power either to continue an employee in service or to initiate or continue the disciplinary proceedings after an employee retired from service or to withhold the terminal benefits payable to him. Admittedly, as on date, no such amendment has been made to the Common Cadre Service Rules for the reasons best know to the respondent – State.



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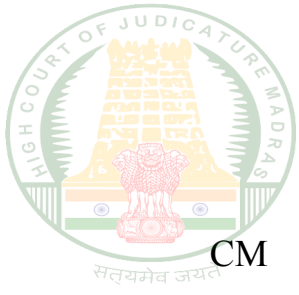
7. In the light of the above order dated 09.07.2026 passed by this Court, the impugned charge memos challenged in WP(MD)No.8740 of 2026 and the impugned proceedings dated 30.05.2025 in WP(MD)No. 8741 of 2026 cannot be sustained and accordingly, all the respective impugned orders are hereby quashed. Consequently, the respondents are directed to permit the petitioner to retire from service with effect from 31.05.2026 and disburse all the other retirement benefits as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this order. It is made clear that in case if any amounts are legally due and payable to the respondent Society by the petitioner, the respondents are at liberty to take appropriate steps in accordance with law.

8. In fine, both the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

29.07.2026

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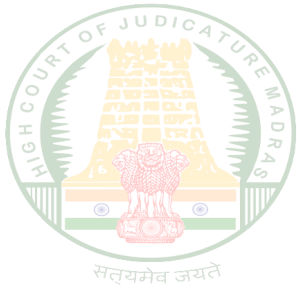
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TO

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Office of the Joint Registrar of
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2. The Deputy Registrar of Cooperative Societies,
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MUMMINENI SUDHEER KUMAR,J

CM

WP(MD). Nos.8740 and 8741 of 2026
and WMP(MD)Nos.7062,7063 and 7066 of 2026

Date : 29/07/2026