



W.P.(MD) No.9437 of 2026

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.9437 of 2026
and
W.M.P.(MD) Nos.7541 & 7542 of 2026

S.Natarajan

... Petitioner

-VS-

- 1.The Registrar of Cooperative Societies
O/o.The Registrar of Cooperative Societies
No.170, N.V.Natarajan Maaligai
E.V.R.High Road, Kilpauk
Chennai-600 010
- 2.The Joint Registrar of Cooperative Societies /
Common Cadre Authority
O/o.The Joint Registrar of Cooperative Societies
Virudhunagar Region, Virudhunagar
- 3.The Deputy Registrar of Cooperative Societies
O/o.The Deputy Registrar of Cooperative Societies
Aruppukkottai Circle
Virudhunagar District
- 4.The Administrator
Q.165, Dharmam Primary Agricultural
Cooperative Credit Society
Irunchirai, Thiruchuzhi Taluk
Virudhunagar District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned order vide Na.Ka.439/2026/O.OO, dated 30.01.2026, passed by the second respondent and quash the same so far as relating to the condition for recovery from retirement benefit is concerned and consequently directing the respondents to disburse the retirement benefit such as gratuity, employees provident fund and earned leave salary and other monetary benefit payable to the petitioner with interest at the rate of 10% from the date of retirement till the date of realization within the time frame.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.M.Dinesh Hari Sudarsan
Counsel for the Government of Tamil Nadu

ORDER

The petitioner herein, who was initially appointed as Clerk in the fourth respondent – Society, was promoted to the post of Secretary on 11.03.1991 and his services were also regularized by the second respondent in the said post *vide* proceedings bearing R.C.No.109/2007/PACB, dated 12.01.2007, with effect from 12.03.2001. Having worked as Secretary since then, the petitioner was allowed to retire from service on attaining the age of



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superannuation on 30.01.2026 and accordingly, the second respondent issued the impugned proceedings dated 30.01.2026 permitting the petitioner to retire from service on certain conditions. It is aggrieved by one such condition and also aggrieved by the action of the respondents in not releasing the terminal benefits, the petitioner has approached this Court by filing the present writ petition to the extent of imposing a condition for recovery from his terminal benefits. The condition, by which the petitioner is aggrieved, reads as under:

மேலும் தனியர் பணிவரன் முறைப்படுத்தப்படுவதற்கு முன்னரே எழுத்தர் பணிநிலையில் இருந்து செயலாளர் பணிநிலைக்கு பதவி உயர்வு வழங்கப்பட்டு, அதனடிப்படையில் ஊதிய நிர்ணயம் செய்து வழங்கப்பட்டுள்ளதால், தனியருக்கு அனுமதிக்கப்பட்ட மிகை ஊதியத்தை வட்டியுடன் வசூல் செய்தும், பார்வை (1) இன்படி அருப்புக்கோட்டை சரக துணைப்பதிவாளரின் அறிக்கையில் தெரிவிக்கப்பட்டுள்ள குறைகள் மற்றும் விழிப்புப்பணிக் குழுவினரின் 23.10.2025 தேதிய அறிக்கையில் சுட்டிக்காட்டப்பட்டுள்ள குறைகள் நிவர்த்தி செய்யப்பட்ட பின்னர் ஓய்வுகால நிதிப்பலன்கள் வழங்குவதற்கு பொதுப்பணிநிலைத்திறன் குழுத்தலைவரின் ஒப்புதல் பெறுவதற்கான முன்மொழிவினை அனுப்பி ஒப்புதல் பெற்றபின்னர் ஓய்வுகால நிதிப்பலன்கள் வழங்கிட ஆணையிடப்படுகிறது.

2. Learned counsel for the petitioner fairly submitted that the petitioner is not aggrieved by the conditions Nos.(1) to (4) imposed in the impugned proceedings.



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3. From the perusal of the condition extracted above, it reveals that the petitioner was promoted to the post of Secretary even prior to the regularization of his services in the post of Clerk and therefore, the salary that was paid to him in the post of Secretary for the relevant period was found to be irregularly paid to him and the said amount is sought to be recovered from the terminal benefits payable to the petitioner.

4. The second respondent has filed his counter-affidavit contending that conditions have been imposed in the impugned proceedings due to the erroneous promotion extended to the petitioner resulting in excess payment of salary to him, which caused loss to the respondent – Society. It is also further contended that the power to ensure financial propriety and recover losses due to erroneous payments is inherent in the regulatory authority and is exercised through statutory provisions, like, Section 82 of the Tamil Nadu Cooperative Societies Act, 1983 and the respondents have power to recover the loss from the terminal benefits of the employee of the Society, if any loss is caused to the Society.



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5. Heard Mr.D.Shanmugaraja Sethupahi, learned counsel for the petitioner and Mr.M.Dinesh Hari Sudarsan, learned counsel for the Government of Tamil Nadu appearing for the respondents and carefully perused the entire materials available on record.

6. The amounts that are sought to be recovered from the petitioner under the impugned proceedings is on the ground that the petitioner was extended the benefit of promotion, though he is not entitled for the same for want of regularization of his services in the lower cadre i.e., Clerk and therefore, the salary that were paid to the petitioner were found to be excess payment and causing loss to the respondent – Society. However, in the counter-affidavit filed by the second respondent, there is nothing to indicate that the petitioner has not discharged his functions as Secretary right from 1991 till the date of his superannuation on 30.01.2026. Thus, it is evident that the respondent – Society has extracted work from the petitioner as Secretary for all these years. If at all the promotion extended to be petitioner is found to be irregular, the respondents ought to have taken necessary steps either for revising the date of promotion or reverting the petitioner from the post of Secretary to the post of Clerk. At no point of time, while the petitioner



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was in service, such steps have been taken by the respondents. On the other hand, the respondents extracted work from the petitioner in the post of Secretary and therefore, the salary that was paid to him in the post of Secretary cannot be treated as the amounts for which he is not entitled to nor the same can be termed as a loss to the respondent – Society. Therefore, the condition imposed in the impugned proceedings to that extent is bound to be declared as arbitrary, illegal and the one imposed without application of mind.

7. Then, coming to the ground of jurisdiction of the second respondent in imposing such a condition in the impugned proceedings, by placing reliance on a decision of the learned Division Bench of this Court in W.A.(MD) No.1349 of 2023, is concerned, the learned counsel for the Government of Tamil Nadu appearing for the respondents has not seriously disputed about the law laid down by the learned Division Bench of this Court in the said decision. In Paragraph Nos.4 to 6 of the said decision, the learned Division Bench has held as follows:

“4. The learned Single Judge considered the case of the parties and considered the fact that when the first respondent belong to the common cadre and when there is no provision in the rules for imposing such an order of withholding of all the service benefits, the conditions cannot be sustained and



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accordingly, allowed the writ petition. Eventhough the order is passed by the Joint Registrar of Co-operative Societies and eventhough the appellant Society had originally passed the resolution recommending the retirement of the first respondent, the appellant Society had only filed the present appeal.

5. Even otherwise, when the first respondent belong to common cadre, whether to permit him to retire or to suspend him from service and retain him upon the age of superannuation are all governed by statutory Rules. Therefore, it is open for the respondents 2 and 3 if permissible under the Rules to suspend the first respondent and retain him from service. Once he is permitted to retire, then as per the statutory Rules, all the retiral benefits have to be paid by the appellant Society. The action of the second respondent/Joint Registrar of Co-operative Societies, in permitting the first respondent to retire and at the same time practically holding otherwise that none of the retiral benefits should be paid to him, is a colourable exercise of power. If the authority cannot directly place the employee under suspension or retain him in service for the mere pending of an inquiry under Section 81, the same cannot be done indirectly by imposing conditions which would virtually amount to undoing his permission to retire.

6. When there is no provision in the statutory Rules to impose such a condition, no exception whatsoever can be taken to the order of the learned Single Judge allowing the



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writ petition. Accordingly, finding no merits, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.”

8. Similarly, another learned Division Bench of this Court in W.A.

(MD) No.1174 of 2025 and batch has held as follows:

“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”.



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9. In the light of the above, it is now well settled that the respondents have no power or authority either to initiate a new disciplinary proceedings or propose to recover any amounts from the petitioner on whatsoever grounds once the petitioner retired from service. In the absence of any such power, the action of the second respondent in imposing the impugned condition in the impugned proceedings and thereby withholding the terminal benefits of the petitioner is without any power or authority or jurisdiction. In the circumstances, the impugned proceedings are liable to be quashed to that extent alone.

10. Accordingly, the impugned proceedings dated 30.01.2026, issued by the second respondent, is hereby quashed only to the extent of proposing to recover amounts from the petitioner towards salary paid to him in the post of Secretary alone. The respondents are directed to release the terminal benefits of the petitioner as expeditiously as possible, at any rate, within a period of eight weeks from the date of receipt of a copy of this order, if the petitioner is otherwise entitled for the same.



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11. It is made clear that in this writ petition, this Court has dealt only with the power of the second respondent to withhold terminal benefits of the petitioner, after having permitted him to retire from service solely on the ground of lack of jurisdiction. In case if the fourth respondent – Society is of the view that any amount is legally due from the petitioner, it is open for them to take appropriate action in accordance with law.

12. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

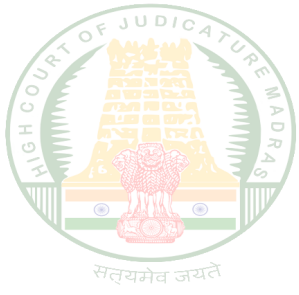
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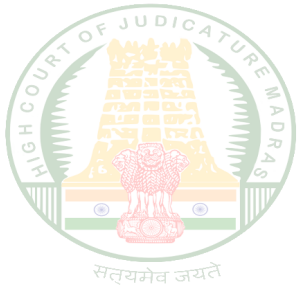
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