



W.P.(MD) No.15665 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.15665 of 2026

and

W.M.P.(MD) No.11757 of 2026

Kannan

... Petitioner

-vs-

1.The Joint Registrar of
Cooperative Societies
Office of the Joint Registrar of
Cooperative Societies
Ramanathapuram

2.The Deputy Registrar of
Cooperative Societies
Paramakudi Circle
Paramakudi

3.The Administrator
Q1228 Mandalamanickam Primary
Agricultural Co-operative
Credit Society
Mandalamanickam
Kamuthi Taluk
Ramanathapuram District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned orders issued by the first respondent in Na.Ka.No.2808/2026/C1 dated 29.05.2026 and quash the same and consequently direct the respondents to disburse all retirement benefits payable to the petitioner with interest at the rate of 12% p.a. till realization within the time stipulated by this Court.

For Petitioner : Mr.N.Satheesh Kumar

For Respondents : Mr.C.Jeganathan
Counsel for the Government of Tamil Nadu

ORDER

This writ petition has been filed challenging the proceedings bearing Na.Ka.No.2808/2026/C1, dated 29.05.2026, issued by the first respondent, whereby the petitioner herein, who was working as Secretary in the third respondent – Society, was relieved from service on attaining the age of superannuation, while not permitting him to retire service and his terminal benefits were directed to be withheld till the disposal of the criminal case stated to be pending against the petitioner.



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2. The facts of the case are that the petitioner herein, having served as Secretary in the third respondent – Society, has attained the age of superannuation and due for retirement on 31.05.2026. In the circumstances, the impugned proceedings came to be issued, thereby depriving the petitioner of release of his terminal benefits till the disposal of the criminal case that is pending against him. Hence, the petitioner has approached this Court by filing the present writ petition contending that he was allowed to retire from service *vide* the impugned proceedings, but his retirement benefits have been withheld without there being any power or authority.

3. It is the further case of the petitioner that the petitioner is governed by the Common Cadre Service Rules and there is no provision in the Common Cadre Service Rules that would enable the respondents to withhold the terminal benefits, after having permitted the petitioner to retire from service and also contends that there is no provision in the said Common Cadre Service Rules either to continue the disciplinary proceedings that were pending against the petitioner, while he was in service or to initiate any fresh disciplinary proceedings after he was allowed to retire from service. Thus, it is contended that the first respondent lacks jurisdiction to issue the impugned proceedings withholding the terminal benefits of the petitioner.



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4. In response to the notice issued by this Court, the third respondent filed a detailed counter-affidavit contending that the petitioner was not allowed to retire from service *vide* the impugned proceedings, while relieving him from service on attaining the age of superannuation and the terminal benefits were directed to be released only after the disposal of the criminal case pending against him and settlement of the loan transaction for which the petitioner stood as a guarantor.

5. It is also further contended in the counter-affidavit that in addition to the Common Cadre Service Rules, the petitioner is also governed by the Special Bylaws of the third respondent – Society and the provisions of the Tamil Nadu Co-operative Societies Act, 1983, and therefore, the respondents have got power to place the petitioner under suspension, while he was in service. In case if the petitioner was placed under suspension by operation of Section 76 of the Tamil Nadu Co-operative Societies Act, 1983, as per Special Bylaw No.31(4), his service is deemed to have been extended till the disposal of the disciplinary proceedings pending against him and the service rights that accrued to him shall freeze on the date of superannuation and the petitioner shall not be entitled for subsistence allowance.



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6. It is also further stated in the counter-affidavit that there is no provision or Rule in the Common Cadre Service Rules excluding the applicability of the Special Bylaws of the third respondent – Society and therefore, the contentions of the petitioner are liable to be rejected. It is also contended that by virtue of the impugned proceedings, the petitioner is deemed to have been placed under suspension, while retaining him in service. It is also further contended that the petitioner has got effective alternative remedy of revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, and therefore, the present writ petition is not maintainable.

7. Heard Mr.N.Satheesh Kumar, learned counsel for the petitioner and Mr.C.Jeganathan, learned counsel for the Government of Tamil Nadu appearing for the respondents.

8. Though learned counsel for the petitioner filed the present writ petition on the ground that the petitioner was allowed to retire from service, having realized that through the impugned proceedings, the petitioner was not in fact allowed to retire while relieving him from service, he contended that there is no provision in the Common Cadre Service Rules that would enable



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the first respondent to retain the petitioner in service beyond the age of superannuation and therefore, the impugned proceedings issued by the first respondent retaining the petitioner in service, while not permitting him to retire from service, is contested as the one without power, authority or jurisdiction. In support of this contention, learned counsel for the petitioner also placed reliance on a decision of the learned Division Bench of this Court in W.A.(MD) No.1174 of 2025 etc. batch, dated 05.08.2025, in the case of ***The Administrator, NN 406, P.Kodikulam Primary Agricultural Co-operative Society, P.Kodikulam, Paramakdu Taluk, Ramanathapuram District vs. A.Elamathiyan.***

9. On the other hand, Mr.C.Jeganathan, learned counsel for the Government of Tamil Nadu, contends that there is no provision in the Common Cadre Service Rules that would enable the first respondent to retain the petitioner in service without permitting him to retire from service. In the light of the Special Bylaw No.31(4) of the third respondent – Society, the first respondent has got competency to issue the impugned proceedings. He also further submits that in case if the petitioner is convicted in the criminal case pending against him, he would not be entitled for any terminal benefits and therefore, the first respondent has rightly issued the impugned proceedings



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withholding the terminal benefits of the petitioner pending the criminal case.

Once the criminal case is decided in favour of the petitioner, all the terminal benefits, for which the petitioner is entitled to, would be released. However, learned counsel for the Government could not dispute the decision of the learned Division Bench of this Court dated 05.08.2025 in W.A.(MD) No.1174 of 2025 etc. batch relied upon by the learned counsel for the petitioner.

10. This Court has carefully considered the submissions made by the learned counsel on either side and carefully perused the entire materials available on record.

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



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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 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



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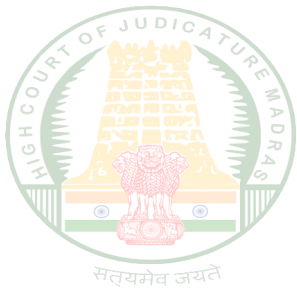
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appropriate to extract the relevant paragraphs of the above cited decision of the learned Division Bench of this Court hereunder:

“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

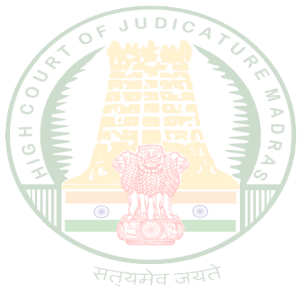


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employees in the common cadre is entitled to proceed with the enquiry, but it shall be done only in terms of the clauses mentioned in the G.O. The G.O. has nowhere stated that the employee could be continued to be kept under suspension even after attaining 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 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



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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:-

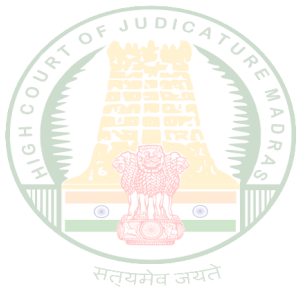
“31.SUSPENSION

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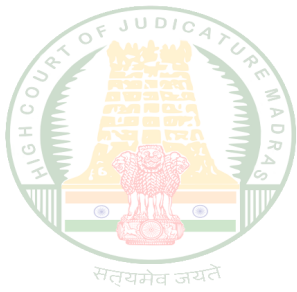
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(2) The authority competent to suspend an employee may grant to the employee suspended, subsistence allowance in accordance with the provisions of the Tamil Nadu Payment of Subsistence Allowance Act 1881:

(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.

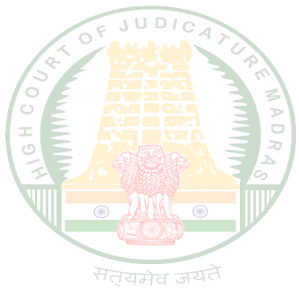


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The Hon'ble Division Bench had also indicated that amendments to the Rules are called for. Unfortunately, till date the rules have not been amended. When the common cadre did not provide for retention of the delinquent employees in service for inflicting 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."

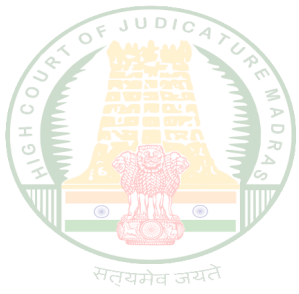
13. By applying the above decision of the learned Division Bench, which came to the conclusion that in the absence of any provision in the Common Cadre Service Rules, it is not open for the respondent authority either to withhold the terminal benefits or to continue the disciplinary proceedings after 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



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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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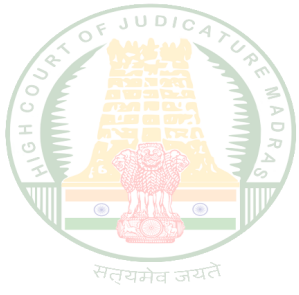
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15. Accordingly, the impugned proceedings, dated 29.05.2026, issued by the first respondent, is hereby quashed and on the petitioner attaining the age of superannuation, the respondents are directed to release all the terminal benefits due and payable to him consequent upon his retirement with effect from 31.05.2026, as expeditiously as possible, at any rate, within a period of eight weeks from the date of receipt of a copy of this order. Insofar as the so-called liability of the petitioner by virtue of he standing as a guarantor for the loan transaction of his co-employee is concerned, the respondents are at liberty to act in accordance with the established procedures and rules governing the same. No costs. Consequently, connected miscellaneous petition is closed.

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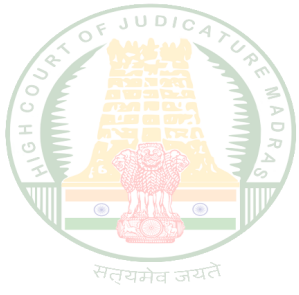


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To:

- 1.The Joint Registrar of
Cooperative Societies,
Office of the Joint Registrar of
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Ramanathapuram.
- 2.The Deputy Registrar of
Cooperative Societies,
Paramakudi Circle,
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MUMMINENI SUDHEER KUMAR, J.

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