



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**  
**and**  
**THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.A. (MD)No.895 of 2019**

M.Subburayan

... Appellant/ Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,  
Additional Building District Collectorate Complex,  
Thanthonimalai, Karur District.

2.The Deputy Registrar of Co-Operative Societies,  
No.149, Anna Nagar Main Road,  
Thanthonimalai,  
Karur District.

3.The President,  
R-1598, Thalavapalayam Primary Agricultural  
Co-operative Credit Societies,  
Thalavapalayam Post,  
Manmangalam Taluk,  
Karur District.

...Respondents/ Respondents

**PRAYER:** Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order dated 20.06.2019 passed in W.P.(MD) No.13803 of 2019 on the file of this Court and allow the writ appeal.

**Prayer in WP(MD). 13803 of 2019 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the order passed by the 3rd respondent in Na.Ka.No. 1/2019 dated 17.05.2019 and quash the same consequently direct the 3rd respondent to pay the terminal benefits and other monetary benefits together with interest to the petitioner.

For Appellant

: Mr.I.Suthakaran

For Respondents

: Mr.M.Murugan  
Government Advocate



**JUDGMENT**

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.I.Suthakaran, learned counsel appearing for the appellant and Mr.M.Murugan, learned Government Advocate, appearing for the respondents.

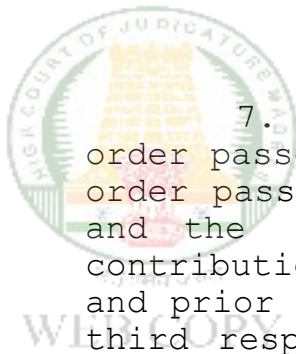
2. By consent of both parties, this appeal is taken up for final disposal.

3. This appeal has been filed by the appellant / writ petitioner challenging the order passed by the learned Single Bench in W.P.(MD)No.13803 of 2019. The appellant challenges the order passed by the third respondent dated 17.05.2019, by which the appellant's personal contributions made while in service was refused to be sanctioned and paid to the appellant on the ground that he has been dismissed from service for criminal charges.

4.The learned Single Bench was of the view that the writ petition is not maintainable as against the Co-operative Society and in this regard a reference is made to the decision of the larger Bench in the case of **K.Marappan Vs. The Deputy Registrar of Co-operative Societies and others [2006 (4) LW 495 : 2006 (4) MLJ 641]**. Accordingly, the writ petition was dismissed leaving it open to the appellant to approach the competent authority under the provisions of the Tamil Nadu Cooperative Societies Act. Admittedly, the order impugned in the writ petition was not an order, by which the petitioner was dismissed from service, but an order, by which the claim of personal contributions of the petitioner was rejected.

5. The entitlement of payment of personal contributions of an employee, who has been removed from service came for consideration in several cases and the Hon'ble Division Bench in W.A.No.207 of 2016 had held that the personal contributions made by an employee while in service, can be paid to the employee, though the employee had been dismissed from service. We were informed that the Special Leave Petition filed against the said judgment was dismissed by the Hon'ble Supreme Court.

6. The legal position, which stems out on those orders and judgment, is that the payment of personal contributions to the employee cannot be rejected citing the reasons that disciplinary proceedings or surcharge proceedings or criminal proceedings are pending against against the employee. In the light of the settled legal position, we are of the considered view that though the appellant had not challenged the order of dismissal from service, yet he is entitled to the personal contributions made by the appellant while in service.



7. For the above reasons, the writ appeal is allowed and the order passed in the writ petition is set aside and the consequential order passed by the third respondent, dated 17.05.2019 is set aside and the third respondent is directed to release the personal contributions of the appellant made by him while he was in service and prior to his dismissal. This direction be complied with by the third respondent within a period of eight weeks from the date of receipt of copy of this judgment.

8. We make it clear that what is required to be paid to the appellant is the personal contributions and it should not be mistaken that we have directed pensionary benefits, which cannot be paid on account of the order of dismissal passed against appellant had not become final. We make this issue clear, because the appellant sought for a direction in the writ petition to settle the terminal benefits and other monetary benefits. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

To

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Karur District.

+1 CC to M/s.I.SUTHAKARAN, Advocate ( SR-85050[F] dated 04/09/2019 )  
+1 CC to M/s.SPL GP ( SR-85631[F] dated 06/09/2019 )

**ORDER MADE IN**  
**W.A. (MD)No.895 of 2019**  
**04.09.2019**

TA  
MS/19.09.2019/3P.6C