



WEB COPY



W.P.No.19773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.19773 of 2023
and W.M.P.Nos.19064 to 19066 of 2023

S. Chandra Prabha

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Erode Circle,
Erode – 638 009.

2.The Additional Registrar/Managing Director,
Erode District Central Co-operative Bank,
Erode.

3.The Additional Registrar/Enquiry Officer,
Under Section 81 of the Tamil Nadu
Co-operative Societies Act.
P.E,62 Tamil Nadu Co-operative Textile
Processing Mill Employees,
Co-operative Thrift and Credit Society Ltd.,
Bhavani Main Road,
Erode – 638 004.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of
India praying to issue a Writ of Certiorarified Mandamus, calling for



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the records of the enquiry report under section 81 of the Tamil Nadu Co-operative Society Act dated 23.03.2022 on the file of the 1st respondent and consequential order of suspension passed by the 2nd respondent in Na.Ka.No.002087/2022-2023/E5 dated 26.04.2023 quash the same insofar as the petitioner is concerned and consequentially direct the 1st respondent not to precipitating any penal action under the criminal law against the petitioner pursuant to the enquiry report under section 81 of the TNCS Act dated 23.03.2022 and pay all service benefits of the petitioner with statutory interest.

For Petitioner	: Mr.M.S. Palaniswamy
For R1	: Mr.M. Bindran, Additional Government Pleader
For R2 & R3	Mr.V. Jeevagiridharan, Additional Government Pleader

ORDER

Heard the learned counsel for the petitioner, learned Additional Government Pleader for the first respondent and the learned Additional Government Pleader appearing for the second and third respondents.



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2. On a set of charges that there was supervisory lapse in disbursement of loan amount, the petitioner was subjected to disciplinary proceedings and ultimately, the punishment of stoppage of increment for one year was imposed on 25.04.2023. When the petitioner was due to retire on 30.04.2023, the second respondent/Bank has passed the impugned order on 26.04.2023, stating that there was a contemplation for initiation of criminal proceedings against the petitioner in connection with the same charge for which, she was imposed with a punishment on 25.04.2023 and thereby, placed the petitioner under suspension and did not permit her to retire from service. For such a punishment, reliance was placed on Special Bylaw No.22 of the Erode District Central Cooperative Bank Ltd. Challenging the same, the present Writ Petition has been filed.

3. While the learned counsel for the petitioner submitted that in contemplation of a criminal proceedings, suspension order cannot be made and is against Special Bylaw No.22, the learned Additional Government Pleaders placed reliance on the averments made in the



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counter-affidavit and submitted that the criminal case against the petitioner is under process with the Commercial Crime Investigation Wing of the Erode District and therefore, in view of Special Bylaw No.22(1), there is no infirmity in the suspension order.

4. A mere contemplation for implicating an employee in a criminal proceedings, will not amount to pendency of a criminal case. The Special Bylaw No.22 provides that, when an inquiry against an employee of the Bank is contemplated or pending, or a complaint against him of any criminal offence is under investigation or under trial, the employee of the Bank can be placed under suspension from service. The Special Bylaw No.22 itself is clear that pendency of a criminal case would mean only when the investigation is under progress or a trial before the Criminal Court is pending.

5. In the instant case, admittedly, no criminal case has been registered against the petitioner as on date. As a matter of fact, the counter-affidavit itself states that the registration of a criminal case by CCIW, is alleged to be under process only. When the respondents



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themselves have admitted that a criminal case has not been registered against the petitioner, they cannot invoke the Special Bylaw No.22(1), which would relate to only such employees against whom criminal investigation or trial is pending trial.

6. This apart, the petitioner herein has already been subjected to disciplinary proceedings and had also been imposed with a punishment of stoppage of increment for a period of one year through the order dated 25.04.2023. Thus, the very basis on which the order of suspension was made and thereby, not permitting the petitioner to retire from service, cannot be sustained.

7. In the result, the impugned order dated 26.04.2023 passed by the second respondent in Na.Ka.No.002087/2022-2023/E5, is hereby quashed. Consequently, there shall be a direction to the respondents herein, to forthwith pass appropriate orders, permitting the petitioner to retire from service, together with all the monetary, retirement and pensionary benefits. Such orders shall be passed at least within a period of two (2) days from the date of receipt of a copy of this order.



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8. With the above direction, the Writ Petition stands allowed.

No costs. Connected miscellaneous petitions are closed.

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Index: Yes

Speaking order

Internet: Yes

Neutral Citation: Yes

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M.S.RAMESH,J.

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