



W.P.Nos.1906,3621 and 8444 of 2017

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on:22.06.2023

Delivered on: 11.08.2023

**CORAM:**

**THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.P.Nos.1906,3621 and 8444 of 2017**

**&**

**W.M.P.Nos.1926,1927,3655,3656,9241,9242 and 24660 of 2017**

K.P.P.Panneerchelvan

... Petitioner in all the cases

**Vs.**

1.The State of Tamil Nadu rep by

The Secretary to Government

Co-operation Food and Consumer Protection Department

Fort.St.George, Chennai-9

.... 1<sup>st</sup> respondent in all cases

2.The Registrar of Co-operative Societies

N.V.N.Maligai, EVR Periyar High Road

Kilpauk,

Chennai-600 010

... 2<sup>nd</sup> respondent in W.P.No.1906 of 2017

3.The Enquiry Officer

O/o The Registrar of Co-operative Societies

170, E.V.R. Periyar High Road

Kilpauk,

Chennai-600 010

4.The Additional Registrar

of Co-operative Societies

1/33



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(Marketing, Planning & Development)  
O/o. The Registrar of Co-operative Societies  
170, EVR Periyar High Road  
Kikpauk, Chennai-600 010

5. The Deputy Registrar of  
Co-Operative Societies (Non-credit)  
2<sup>nd</sup> floor, Kuralagam  
Chennai-108

... Respondents 2 to 5 in W.P.No.8444 of 2017

**PRAYER in W.P.No.1906 of 2017:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 2<sup>nd</sup> respondent made in R.C.No.615/2016/PA1 dated 10.08.2016 and quash the same and consequently direct the respondents to permit the petitioner to retire from service on attaining the age of superannuation and to settle all the retirement benefits.

**PRAYER in W.P.No.3621 of 2017:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent made in G.O. (2D) No.7



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Cooperation Food and Consumer Protection (CE2) Department dated 22.02.2013 and G.O.(3D) No.03 Cooperation Food and Consumer Protection (CE2) Department dated 28.02.2013 and quash the same and consequently direct the respondents to revoke the suspension and permit me to retire from service and settle all the service benefits.

**PRAYER in W.P.No.8444 of 2017:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the 2<sup>nd</sup> respondent made in Na.Ka.1712/2015/Sapal undated which was served on the petitioner on 23.02.2017 and the consequential proceedings issued by the first respondent in Lr.No.2417/CE2/2014-17 dated 25-4-2016 and quash the same.

For Petitioner : Mr.P.Wilson, Senior Counsel  
for  
Mrs.Selvi George

For Respondents : Mr.S.Silambanan, AAG  
in all the cases assisted by  
Mr.T.Chezhan, AGP

**COMMON ORDER**



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**W.P.No.1906 of 2017**

The present Writ Petition has been filed seeking for issuance of a writ of Certiorarified Mandamus to quash the proceedings dated 10.08.2016, on the file of the 2nd respondent and to consequently direct the respondents to allow the petitioner to retire from services, on his attaining the age of superannuation and settle all his retirement benefits.

2. The gist of the petitioner's case is that he was selected by the Tamil Nadu Public Service Commission (TNPSC) and posted as Deputy Registrar, Co-operative Society on 24.09.1981 and that thereafter promoted as a Joint Registrar on 15.12.1989 and as an Additional Registrar of Co-operative Society on 16.04.2005 and thereafter as a Registrar of Co-operative Society (Housing) on 08.12.2008. When the petitioner was due to retire on 28.02.2013, on superannuation, the petitioner was slapped with a charge memo containing 3 charges viz.,

i) that he failed to take action against a particular Deputy Registrar



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(Housing) and other officers for misappropriation of society funds to the tune of Rs.75 lakhs;

ii) he failed to take action against the officers mentioned in Charge no.1 for the act of causing financial loss of Rs.9,00,000/-per annum towards interest, and;

iii) he had suspended Mr.Balakrishnan, one of the officers mentioned in the charge No.1 on 21.08.2009 without mentioning any reason for suspension and subsequently for reinstating the said Mr.Balakrishnan on 17.09.2009, without taking any action against him.

3. According to the petitioner, all the three charges were vague and frivolous. In so far as the 1<sup>st</sup> and 2<sup>nd</sup> charges, he would contend that the scheme was approved by the then Registrar (Housing) even before the petitioner joined as Registrar (Housing) and in so far as the suspension of Mr.Balakrishnan, the petitioner had issued the suspension order with an aim to proceed against the said person, departmentally. Regarding revoking the suspension of Mr.Balakrishnan, the petitioner would contend that since he



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was satisfied that the suspended officer was not likely to tamper with the evidence or commit the very same delinquency again, it was not necessary to continue the order of suspension and therefore the petitioner revoked the order of suspension. Thereafter, the petitioner was relieved from the said post on 24.09.2009 and even subsequently the said Mr.Balakrishnan was allowed to continue till 11.04.2011, without even a transfer posting. Though the petitioner worked as a Registrar (Housing) only for a short span time, namely, between 10.12.2008 and 24.09.2009, no action was initiated either against his predecessors in office or his successors in office to his post. According to the petitioner, this discloses clear malice and bias. The petitioner was not allowed to retire and on the verge of his superannuation, he was served with the suspension order. The main thrust of the attack in the writ petition is that in respect of incidents that occurred between 10.12.2008 & 24.09.2009 action is being initiated belatedly. Moreover, the 2<sup>nd</sup> respondent who issued the charge memo is not competent to issue the same and for various other grounds set out in the affidavit in support of the writ petition, the petitioner prayed for the writ petition being allowed.



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4. The 2<sup>nd</sup> respondent has filed a counter affidavit stating that there is no time limit for framing charges in cases where a Government servant was not allowed to retire from Government services and that serious lapses on the part of the petitioner came to light and therefore disciplinary action came to be initiated in respect of the said lapses as soon as they came to light. It is also stated that the 2<sup>nd</sup> respondent is a competent authority to frame charges as the petitioner is a subordinate to the 2<sup>nd</sup> respondent and therefore the charge memo was perfectly valid in the eye of law. The respondent therefore, sought for dismissal of the writ petition.

5. The petitioner has filed a rejoinder to the said counter affidavit filed by the 2<sup>nd</sup> respondent, reiterating the averments made in the affidavit in support of the writ petition, setting out in detail, his explanation to the three charges levelled against him.

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6. This writ petition has been filed by the petitioner seeking issuance of a writ of Certiorari Mandamus to quash G.O(2D).No.7 dated 22.02.2013 and G.O(3D) No.03 dated 28.02.2013 and consequently revoke the suspension and to permit the petitioner to retire from service and to consequently settle his service benefits.

7. The case of the writ petitioner in this writ petition is that while the petitioner was to due to retire on 28.02.2013, to his shock, the 1<sup>st</sup> respondent issued the impugned G.O's on the ground that a regular case and seven detailed enquiries were pending for lapses on the part of the petitioner and therefore he was not permitted to retire. According to the petitioner, though he was suspended way back on 22.02.2013, just prior to his superannuation, the said order had not been revoked or reconsidered till date of his filing of the above writ petition. According to the petitioner, though he was suspended on the ground that an enquiry into grave allegations & lapses had been ordered, a charge memo was issued only in the year 2016 in respect of delinquencies that had occurred more than 8 years back. The petitioner further contends that he had been singled out and no action has been initiated against other



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officials who have succeeded him in office and even the erring officials were allowed to continue even without a transfer. Further, the petitioner relies on G.O(Ms)No.144 dated 08.06.2007 in and by which any irregularity or an offence committed by a Government servant that comes to notice within a period of 3 months prior to date of the retirement, then in such cases, the disciplinary authority shall proceed on a war footing and take a decision without any delay whatsoever. However, contrary to the said G.O, according to the petitioner, for alleged occurrences that took place in the year 2008-2009 and 2010-2012 a charge memo has been issued belatedly, despite the Vigilance Commissioner giving a clean chit to the petitioner.

8. The respondents have filed a counter affidavit stating that the petitioner, without even giving a reply to the charges framed, has rushed to this court by filing W.P.No.1906 of 2017. It is further stated that there was no delay in framing charges and the lapses on the part of the petitioner came to light only in the year 2014 and thereafter the Additional Registrar ordered an enquiry under Section 81 of The Tamil Nadu Co-operative Societies Act,



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1983. The enquiry report was submitted on 19.02.2014 and the charges were framed on 25.04.2016. Thereafter G.O(2D).No.19 was issued to take disciplinary action against the petitioner and ultimately charges were framed on 10.08.2016. Thereafter G.O(3D)No. 46 was issued in respect of the 2<sup>nd</sup> charge memo issued to the petitioner and in any event, delay in issuing a charge memo, according to the respondents is not a ground to quash the charge memo. The explanation offered by the petitioner to the charges were not convincing and pending disciplinary action, criminal action and vigilance enquiry, the petitioner cannot seek revocation of suspension. The petitioner has suppressed:

- i. Three sets of 17(b) charges.
- ii. Prosecution under Section 19(1)(b) of Prevention of Corruption Act, 1988,
- iii. One detailed enquiry by Directorate of Vigilance and Anti-Corruption and
- iv. Criminal complaint against the petitioner and others under the Indian Penal Code had all been taken and the petitioner.



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9. It is the case of the respondents that the petitioner can be allowed to retire only after the conclusion of the above-mentioned cases. It is also reiterated that without offering his explanation and co-operating with the enquiry, the petitioner has rushed to the court and hastily approached the court and filed the writ petition and the respondent prayed for dismissal of writ petition.

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10. The petitioner has sought for issuance of a Writ of Certiorari to quash the undated proceedings on the file of the 2<sup>nd</sup> respondent, served on the petitioner on 23.02.2017 and the proceedings issued by the 1<sup>st</sup> respondent on 25.04.2016.

11. The gist of the petitioner's case is that he was selected by the Tamil Nadu Public Service Commission (TNPSC) and posted as Deputy Registrar, Co-operative Society on 24.09.1981 and that thereafter promoted as a Joint Registrar on 15.12.1989 and as an Additional Registrar of Co-operative



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Society on 16.04.2005 and thereafter as a Registrar of Co-operative Society(Housing) on 08.12.2008. When the petitioner was due to retire on 28.02.2013, on superannuation, proceedings were initiated against the petitioner for alleged lapses in starting new trades in Seven Institute of Co-operative Management and release of Rs.2.40 crores. The Enquiry Officer submitted a report without conducting a proper or fair enquiry and pursuant to the same, invoking Section 81 of The Tamil Nadu Co-operative Societies Act, 1983, the 3<sup>rd</sup> respondent directed action to be taken against the petitioner, firstly in the name of surcharge proceedings under Section 87 of The Tamil Nadu Co-operatives Societies Act, 1983, secondly, criminal proceedings and thirdly, Departmental Proceedings.

12. In furtherance of the same, the 5<sup>th</sup> respondent initiated Section 87(1) proceedings on 09.02.2015, being surcharge proceedings. According to the petitioner, the 2<sup>nd</sup> respondent had no jurisdiction or competency to conduct an enquiry and that the 2<sup>nd</sup> respondent did not even furnish the copies of the documents relied on by him to the petitioner and that the petitioner



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was, in no way involved with the allegations pertaining to the purchase of the Technical Appliances and Machineries for which a Special Tender Committee had been formed. The further contentions of the petitioner are that an Additional Registrar of Co-operative Societies did not have power to order a statutory enquiry under Section 81 of the Act, when the superior authority namely, the Registrar had approved related files and also in view of the fact that after a detailed enquiry by the Vigilance Department, all charges were dropped. According to the petitioner, he was not involved in any of the transactions for which he was sought to be charged and it was only because of personal animosity that the Additional Registrar had against the petitioner, he ordered an enquiry under the Section 81 of the Co-operative Societies Act,1983. He would also further contend that the report of the Enquiry Officer was furnished belatedly to the petitioner.

13. The 1<sup>st</sup> respondent has filed a counter stating that the proceedings were initiated in accordance with law and serious lapses on the part of the petitioner had been discovered and such actions and omissions of the



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petitioner had caused loss of Rs.2.40 crores of the Co-operative Educational Fund. According to the 1<sup>st</sup> respondent, the Enquiry Officer completed his enquiry on 12.02.2015 and submitted his enquiry report dated 19.02.2015 and based on the same, appropriate legal steps were initiated against the petitioner. It is also stated that it was not improper or irregular for the Additional Registrar to order an enquiry as Section 3 of The Tamil Nadu Co-operative Societies Act,1983, empowers the Government to confer on any other officer of the Government, by general or special order, all or any of the powers of the Registrar under the said Act. Exercising such power,G.O.(2D).No.108 dated 31.08.2005 was also brought about and in the light of the same, the contentions of the writ petitioner are not deserving any consideration whatsoever. According to the 1<sup>st</sup> respondent, the enquiry officer's report contains 3 parts viz.,

- i)recommending initiation of surcharge proceeds;
- ii)report warranting criminal proceedings under Indian Penal Code, 1860 and;
- iii)initiating disciplinary proceedings against all persons involved.



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As against the disciplinary proceedings, the petitioner without even submitting his explanation chosen to approach this Court with untenable grounds and therefore the writ petition is liable to be dismissed.

14. The 4<sup>th</sup> respondent has filed a separate counter affidavit which is more or less in line with the counter filed by the 1<sup>st</sup> respondent, reiterating that the petitioner, instead of facing the enquiry proceedings, has rushed to the Court and therefore the writ petition is liable to be dismissed.

**Discussions:**

15. All these three writs have been filed by the same petitioner. Insofar as W.P.No.1906 of 2017, challenge is to a charge memo dated 10.08.2016. W.P.No.3621 of 2017 challenges G.O.(2D) and G.O.(3D), in and by which the petitioner was placed under suspension and was not allowed to retire from service, on his attaining superannuation. W.P No.8444 of 2017 has been filed challenging the undated report of the enquiry officer passed under Section 87 of the Co-operative Societies Act,1983.



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16. Pursuant to orders of this Court, all these three writ petitions were clubbed together, considering the fact that the parties are one and the same and the issues involved in all these writ petitions also being more or less the same, namely the action initiated by the respondents against the petitioner.

17. I have heard Senior Counsel, Mr.P.Wilson for Mrs.Selvi George, Counsel for the petitioner, Mr.S.Silambanan, Additional Advocate General, assisted by Mr.T.Chezhan, Additional Government Pleader and Mr.L.PShanmugasundaram, Special Government Pleader Counsel for the Respondents. I have also perused the entire records placed before the court by way of typedsets as well as additional typedsets.

18. According to the Learned senior counsel for the petitioner, Mr.P.Wilson, the entire proceedings initiated against the petitioner was motivated and without any basis whatsoever. He would refer to the dates, according to him, which would make it clear that the proceedings were sought to be initiated belatedly. He would also make submissions with regard to the



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hollowness of the charges slapped against the writ petitioner. That apart, he would also further contend that the petitioner has been singled out for action and various other employees including Registrars have not been proceeded against and he would refer to the relevant materials in this regard. He would also further submit that the same issue was also subject matter of proceedings before the Small Causes Court and the Chief Judge, Court of Small Causes, in and by a detailed order has found in favour of the writ petitioner and the same has also become final. That being the position, it is not open to the respondents to repeatedly initiate proceedings against the petitioner. He would also canvas delay in the very initiation of the proceedings as the foremost ground of challenge in all the three writ petitions. The Learned senior counsel also placed reliance on the following judgments:

i) ***P.V.Mahadevan vs MD.T.N. Housing Board*** reported in (2005) 6 SCC 636;

ii) ***R.Deivendran vs The Collector, Tuticorin*** reported in 2010 SCC Online Mad 6238;



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iii) *P. Patturajan vs The Government of Tamil Nadu* reported in **2011 SCC Online Mad 1935**;

iv) *State of Madhya Pradesh vs Bani Singh and another* reported in **1990 (Supp) SCC 738**;

v) *M.V.Bijlani vs Union of India and others* reported in **(2006) 5 SCC 88**

vi) *D.P.Sharma vs BSES Rajdhani Power Limited and another* reported in **2019 SCC Online Del 9617**.

19. Placing reliance on above judgments, the Learned Senior Counsel for the petitioner would pray for the writ petitions being allowed.

20. Per contra, the Learned Additional Advocate General, Mr.S.Silambanan would submit that the petitioner has hastily approached this court and filed these writ petitions instead of responding to the charge memos issued to the petitioner and participating in the enquiry. According to the Learned Additional Advocate General, the Writ Court cannot go into the



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charges and other factual details. Moreover the charges levelled against the writ petitioner being very grave in nature, the petitioner cannot seek to bypass the disciplinary enquiry proceedings by challenging the same by way of writ petitions. The Writ Court, therefore, according to the learned AAG ought not to entertain the writ petitions and instead ought to direct the petitioner to respond to the charges levelled against him and attend the enquiry and it would always be open to the petitioner to come out clean in the enquiry proceedings. In so far as delay in initiation of the proceedings, the Learned AAG would submit that as soon as the lapses committed by the petitioner came to light, the respondents had immediately acted upon it and issued the charge memos impugned in the writ petitions and therefore delay or laches cannot be a ground for entertaining the writ petitions. He therefore, prayed for dismissal for all the three writ petitions.

21. I have paid anxious consideration to the submissions made by the Senior counsel appearing for the petitioner as well as the respondents. At the outset, the common thread in all three writ petitions is that the respondents



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have initiated action, disciplinary surcharge as well as criminal proceedings against the petitioner in respect of certain alleged lapses that had occasioned during the years 2008-2009 and 2010-2012. Admittedly, no action was taken by the respondents until 2013, on the eve of the petitioner attaining superannuation. In W.P.No.1906 of 2017, the impugned charge memo dated 10.08.2016 pertains to charges which relate to incidents that occurred in 2008 and 2009. In W.P.3621 of 2017, the impugned Government Orders have been passed on 22.02.2013 and 28.02.2013, just prior to the superannuation of the writ petitioner, thereby suspending the writ petitioner and not allowing him to retire, alleging dereliction of duties during the period 2008-2009 and 2010-2012. In W.P.No.8444 of 2017, the petitioner challenges an undated proceedings served on the petitioner on 23.02.2017 claiming to be the surcharge order said to have been passed under Section 87 of The Tamil Nadu Co-operative Societies Act, 1983 for lapses alleged against the writ petitioner for incidents that occurred in 2011 and 2012.

22. In so far as the said surcharge proceedings initiated by the 1<sup>st</sup>



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respondent, a Civil Miscellaneous Appeal No. 9 of 2017 was filed by the petitioner before the Chief Judge, Court of Small Causes, Chennai. In the said Civil Miscellaneous Appeal, the proceedings in surcharge notice dated 9.12.2015 was challenged by the petitioner. After hearing the parties, the Chief Judge, Court of Small Causes held that the Section 81 enquiry report itself was vitiated for want of jurisdiction as the Co-operative Sub-Registrar who conducted the enquiry was not vested with any power to take up any such enquiry under Section 81 of the Act. Ultimately, the Civil Miscellaneous Appeal was allowed and the matter was remitted back to the respondents for appointing a competent officer/ authority above the rank of the appellant to conduct an enquiry under Section 81 of The Tamil Nadu Co-operative Societies Act, 1983 and pursue the matter in accordance with law. However, it appears that subsequent to the said judgement of the Chief Judge, Court of Small Causes, Chennai, no fresh proceedings came to be initiated against the petitioner, by appointing a competent officer/authority. In the present writ petition namely, W.P.No.8444 of 2017, the challenge is only to the report served on the petitioner. However, with the matter attaining finality



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in CMA No. 9 of 2017, where the Section 81 enquiry report itself has been set aside, consequently nothing survives for consideration in this writ petition especially in view of the inaction on the part of the respondents to either challenge the judgement in CMA No. 9 of 2017 or alternatively pursue the directions granted therein and appoint a fresh enquiry officer above the rank of the writ petitioner. When the basis itself becomes unavailable, namely, the Section 81 enquiry report, the Section 87 proceedings cannot have any legs to stand. Consequently, the petitioner is entitled to succeed on this ground alone.

23. With regard to other two writ petitions, the main ground of challenge to the impugned proceedings, namely, the charge memo as well as two Government Orders not allowing the petitioner to retire and also suspending him on the eve of his superannuation, no doubt as contended by the learned AAG, normally the Writ Court would not interfere at such preliminary stages of the enquiry. However, when it is established that the very initiation of the proceedings itself is belated, then the Writ Court exercising jurisdiction under Article 226 of the Constitution of India is



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entitled to interfere and set aside the proceedings.

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24. The charges which form the basis of both the two writ petitions are that the petitioner failed to take action against the concerned officials of the co-operative housing society who had caused misappropriation of society's funds; the petitioner had failed to take action against officers for causing financial loss in relation to interest to be paid to other societies and for having suspended an officer named Mr.Balakrishnan (same person mentioned in the first charge) without assigning any reasons for suspension and subsequently ordering reinstatement of the said person, without taking any action against him. These incidents admittedly took place in the year 2008 and 2009 and there has been total inaction on the part of the respondents in initiating any action against the petitioner. When it is the specific case of the respondents that the allegations are grave in nature, any prudent person would not sleep over the matter for such long period of time and would be expected to take such legal steps at the earliest. The only explanation offered for the delay in initiating the proceedings against the petitioner is that the lapses committed



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by the petitioner came to light much later and thereafter immediate steps have been taken by the respondents and therefore the question of delay would not arise at all. Though such an argument appears to be attractive at first blush, it only exposes the lethargic attitude on the part of the respondents. The respondents are bound to monitor the working of the co-operative society on a regular basis and take action wherever there is any irregularity or illegality. Further, it is also seen that the petitioner served at various places in various capacities and the offences that are alleged cannot be entirely saddled on a single person. The persons who occupied the said post prior to the petitioner as well as the persons who succeeded to him in the said post have all been admittedly totally let off and no action has been taken against them. For instance, in the case of the officer, Mr. Balakrishnan the charge against the petitioner is twofold namely one he did not take action against the said Mr.Balakrishnan and thereby had caused severe loss to the society and secondly, he suspended him without any reason and thereafter reinstated him and no action was taken against him. The said charges are clearly contradicting each other. In the first place, it is alleged that the petitioner did



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not take action against the said officer, Mr.Balakrishnan. Thereafter, it is alleged that the said officer was suspended without any reason and subsequently reinstated and no action was taken against him. When it is admitted by the respondents themselves that the petitioner had suspended the said officer Mr.Balakrishnan they cannot allege that no action was taken by the petitioner against the said officer, Mr.Balakrishnan. In so far as not taking any action against him, it is the specific case of the writ petitioner that soon after the said officer, Mr.Balakrishnan was reinstated, the petitioner was relieved from the said post and therefore it was not proper on the part of the respondents to allege that the petitioner did not take any action. On the contrary, the petitioner has also specifically alleged that even thereafter the said officer, Mr.Balakrishnan was allowed to continue till 2011 and no action was taken against him even by the person succeeding to the office of the petitioner. This specific allegation is not controverted by the respondents. This clearly shows two things. One, despite the serious allegations against the officer, Mr.Balakrishnan, the respondents never bothered to initiate any action against him, even the after the petitioner was relived from his post and



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secondly, the petitioner alone is proceeded against and not the other officers who should be guilty of not taking any action against the said officer, Mr.Balakrishnan. One another factor that assumes relevance is that the respondents plead ignorance of all these very same important circumstances and incidents and until 2013 they have chosen to shut their eyes totally and all of a sudden when the petitioner was about to superannuate, they have woken up and chose to initiate a spate of proceedings against the writ petitioner.

25. Under such circumstances, the question of delay assumes relevance and importance. The Hon'ble Supreme Court in ***P.V.Mahadevan vs MD.T.N. Housing Board*** (referred supra), dealing with the case of delay in initiation of departmental enquiry, held that allowing the departmental proceedings to continue would be very prejudicial to the employee and further held that protracted disciplinary enquiry against a Government employee should be avoided not only in the interest of the Government employee, but in public interest and also and in the interest of inspiring confidence in the minds of the



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Government employees. Infact, the Hon'ble Supreme Court observed that the very pendency of such protracted disciplinary proceedings would cause mental agony and suffering to the Government servant and that it would be much more than the punishment itself and the delay committed by the department even for initiating disciplinary proceedings cannot result in the employee suffering.

26. Curiously, in the above case before the Supreme Court, the stand taken by the respondents, namely the department therein was that irregularities committed by the employee came to the knowledge of the department much later and therefore delay cannot be attributed on the part of the department. The Hon'ble Supreme Court rejected the said contention and held that such reasons are not convincing and were only an afterthought to offer some explanation for the delay.

27. In ***R.Deivendran vs The Collector, Tuticorin*** (referred supra), the Learned Single Judge of this Court held that delay in initiating disciplinary



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proceedings would subject the employee to untold hardship, harassment and humiliation. The Learned Single Judge further held that unexplained delay in issuing the charge memo would vitiate the entire proceedings and render the charge memo liable to be quashed.

28. In *P. Patturajan vs The Government of Tamil Nadu* (referred supra), the Division Bench of this Court, noting the fact that normally writ jurisdiction would not be exercised to quash a charge memo or the show cause notice held that when there is an inordinate delay in issuing the charge memo and there is no explanation for the said delay, the Writ Court is entitled to interfere and set aside the charge memo.

ii) In *State of Madhya Pradesh Vs. Bani Singh and another* (referred supra), the Hon'ble Supreme Court rejected an argument that proceedings ought not to be quashed on the ground of delay and laches and should allow the enquiry to go on to decide the matter on merits, finding that there was no satisfactory explanation for inordinate delay in issuing the charge memo, held that it would be unfair to permit such departmental enquiry to be proceeded with at a belated stage.



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iii) In *M.V.Bijlani vs Union of India & others* (referred supra), the Apex Court found fault with the Tribunal and High Court, for failing to take into consideration that disciplinary proceedings were initiated after 6 years, as it would evidently prejudice the delinquent officer.

29. What is more disturbing is the fact that despite suspending the writ petitioner and also not allowing him to retire just on the eve of his superannuation, the respondents have taken their own sweet time to proceed with the enquiry. The enquiry officer was also appointed as early as on 13.05.2014 and he chose to file his report only on 07.08.2015 which too was communicated to the petitioner only on 23.02.2017, after a lapse of 2 years. Therefore, I am of the view that the ratio laid down by this Court as well as the Hon'ble Supreme Court would squarely apply to facts of the present case, especially the reasons offered by the respondents for the delay in issuing the charge memo being wholly unacceptable and not justifiable for the discussion already made herein above. The charge memo issued after the lapse of almost 8 years is clearly vitiated and liable to be set aside. However, I hasten to reiterate that normally disciplinary proceedings should be allowed to go on in



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the usual course and the Writ Court should not interfere. However it is not the case of the respondents that the delay was occasioned because of the petitioner and since the explanation offered for delay remains unsatisfied and virtually unexplained since the reasons assigned for the same cannot be countenanced in a Court of law, especially in the light of provisions of The Tamil Nadu Co-operative Societies Act, 1983. The definite roles and duties of various officers acting under the said Act are set out and they are duty bound to be in the know of things and check any lapse or irregularity then and there, without allowing such lapses and irregularity to go unnoticed and forgotten and buried.

30. Added to all the above, it is also further seen that the Government in G.O(D344) dated 27.12.2022 has accepted the report of Directorate of Vigilance and Anti-Corruption and dropped all further action against the writ petitioner.

For all the above reasons, I am of the view that the impugned proceedings are liable to be quashed and the writ petitions deserved to be



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allowed. Accordingly, the Writ Petitions are allowed as prayed for. The respondents shall pass necessary consequential orders revoking the suspension of the petitioner, permit the Writ Petitioner to retire and settle all the retirement and service benefits due and payable to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

11.08.2023.

Internet:Yes  
Index:Yes/No  
Speaking Order:Yes/No  
Neutral Citation:Yes/No  
kpr

To

31/33



W.P.Nos.1906,3621 and 8444 of 2017

- 1.The Secretary to Government  
The State of Tamil Nadu  
Co-operation Food and Consumer  
Protection Department  
Fort.St.George, Chennai-9
- 2.The Registrar of Co-operative Societies  
N.V.N.Maligai,EVR Periyar High Road  
Kilpauk, Chennai-600 010
- 3.The Enquiry Officer  
O/o The Registrar of Co-operative Societies  
170, E.V.R. Periyar High Road  
Kilpauk, Chennai-600 010
- 4.The Additional Registrar  
of Co-operative Societies  
(Marketing, Planning & Development)  
O/o. The Registrar of Co-operative Societies  
170, EVR Periyar High Road  
Kikpauk, Chennai-600 010
- 5.The Deputy Registrar of  
Co-Operative Societies (Non-credit)  
2<sup>nd</sup> floor, Kuralagam  
Chennai-108

**P.B.BALAJI, J.,**  
kpr



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**Pre-delivery order in**  
**W.P.Nos.1906,3621 and 8444 of 2017**

**11.08.2023**