



W.P(MD)No.7065 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7065 of 2023

T.Gnanaguru

... Petitioner

Vs.

1.The Regional Deputy Registrar (Housing),
Tiruchirappalli Region,
Housing Co-operative Societies Department,
Samadu School Street,
Mannarpuram,
Trichy-20.

2.The Co-operative Sub Registrar,
Tiruchirappalli Region,
Housing Co-operative Societies Department,
Samadu School Street,
Mannarpuram,
Trichy-20.

3.The Tamil Nadu Government Servants Co-operative Building,
Society Ltd.,(1164),
Represented by its President,
167, Sundarraj Nagar,
Subramaniapuram,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the



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respondents to sanction and pay the petitioners retirement/terminal benefits along with all attendant benefits, interest and arrears to the petitioner within the time that may be stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioner is working as secretary in the 3rd respondent society. He reached the age of superannuation on 30.04.2020. The President of the society relieved him from service. The petitioner's case is that his terminal benefits have not been disbursed till date. That led to filing of the writ petition.

3. When the matter was taken up for hearing, the learned Government Advocate submitted that the Regional Deputy Registrar (Housing Tiruchirappali Region) had issued proceedings as early as on 08.12.2020 to the effect that since the petitioner's retirement is being reviewed, his retirement benefits are being withheld.

4. The third respondent has also filed the counter affidavit and the learned Government Advocate took me through its contents. The stand



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of the respondents is that since the petitioner's retirement has been kept in abeyance, the present writ petition is not maintainable. The learned Government Advocate pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. It is not in dispute that the petitioner reached the age of superannuation on 30.04.2020. The respondents could have refused to permit the petitioner to retire from service. But then, such proceedings must have been issued before the petitioner reached the age of superannuation. It is not open to the respondents to permit the petitioner to retire from service and thereafter, endeavor to review the same. One well-known politician said “கறந்த பால் மடி புகாது. கருவாடு மீனாகாது.” Once an employee is allowed to retire, his exit is irrevocable. He can be re-engaged or re-employed but that would be an independent contractual arrangement. An order permitting an employee to retire cannot be reviewed. After the employee is allowed to retire, the employer-employee relationship snaps automatically on its own accord and the employer will lack jurisdiction to pass any order retaining the petitioner in service thereafter. The issue on hand is no longer *res integra*. It had been held by the Hon'ble Full Bench in the decision



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reported in **2015 (4) CTC 1 (S.Adiyanna Vs. The Joint Registrar of Co-**

operative Society) that the disciplinary proceedings cannot be continued against an employee of a cooperative society in the absence of service rules enabling the disciplinary authority continue the proceedings even after the retirement. In this case, before the petitioner's retirement, no charge memo was issued. Subsequently, notice under Section 81 of the Act has been issued. As held by the Hon'ble Division Bench in **W.A.No. 3133 of 2019 (The Joint Registrar of Co-operative Societies & others Vs. M.Elumalai)**, pendency of Section 81 proceedings cannot be a ground to withhold the retirement benefits. Even if the surcharge proceedings had been initiated, while they can be continued, their pendency cannot be a ground to deny relief. The respondents are directed to disburse the petitioner's retirement benefits within a period of eight weeks from the date of receipt of a copy of this order. I make it clear that granting relief in this writ petition will not tie the hands of the authority from continuing the surcharge proceedings.

6. The Writ Petition is allowed. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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