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CONT.P.(MD)NO.1767 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CONT.P.(MD)No.1767 of 2023 in
W.P.(MD)No.13947 of 2023

G.Mutharasu

... Petitioner

Vs.

1. K.Gandhinathan,
Joint Registrar of Cooperative Societies /
Chairman of Common Cadre Authority,
O/o.The Regional Joint Registrar
of Cooperative Societies,
Dindigul.
2. K.Mathi,
Deputy Registrar of Cooperative Societies,
Palani Circle, Dindigul District.
3. K.Rajangam,
Administrator,
(In the place of President),
A.1410, R.Pudukkottai Primary Agricultural
Cooperative Credit Society,
R.Pudukkottai,
Gujjiliamparai Taluk,
Dindigul District. ... Contemnors / Respondents

Prayer: Contempt petition filed under Section 11 of the Contempt of Courts Act 1971, to punish the respondents under the provisions of Contempt of Courts Act 1971 for willful and deliberate disobedience of the order passed by this Court in W.P.(MD)No.13947 of 2023 and W.M.P.(MD)No.11774 of 2023 dated 14.06.2023.



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CONT.P.(MD)NO.1767 OF 2023

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.S.Ra.Ramachandran,
Additional Government Pleader.

* * *

ORDER

Contending that the interim direction given by this Court has not been complied with, the present contempt petition came to be filed.

2. This Court issued notice to the contemnors. They are present before this Court today and they submitted that the petitioner was responsible for illegally appointing one Muthulakshmi. The validity of her appointment is the subject matter of W.A.(MD)No.1616 of 2021. According to the respondents, that is the reason for non-disbursement of terminal benefits to the petitioner.

3. Admittedly, the petitioner had crossed the age of superannuation. He had been relieved from service. It is true that the relieving order contains stipulation that it was



without prejudice to the initiation of disciplinary action against the petitioner.

4. The Hon'ble Full Bench of this Court in the decision reported in **2015 (4) CTC 1 (S.Andiyannan V. The Joint Registrar, Cooperative Societies, Madurai)** had held as follows:-

“30. Answer to the first question referred to this Bench:

Under the Tamil Nadu Co-operative Societies Act, 1983, once an employee retired from service, there could be no authority vested with the employer for continuing any disciplinary proceeding, in the absence of relevant Service Rules permitting the employer to continue the disciplinary proceeding. In other words, if there is no Service Rules or Bye-law of the society empowering the employer to continue the departmental proceeding, the employer, would have no authority to continue the departmental proceeding after the retirement of the employee.”



5. In this case, even charge memo had not been issued to the petitioner. Therefore, the question of continuance does not arise at all. Common Cadre Regulations do not provide for continuing the departmental action, if initiated. Even if the department succeeds in W.A.(MD)No.1616 of 2021, no disciplinary action can be taken against the petitioner herein. In this view of the matter, the respondents are bound to release the terminal benefits. Since the grant of interim direction would amount to allowing the main writ petition itself, I direct the respondents to release the gratuity amount payable to the petitioner within a period of six weeks from the date of receipt of a copy of this order. The learned Additional Government Pleader informed the Court that PF amount payable to the petitioner has already been disbursed. The disbursement of the leave salary will depend on the outcome of the main writ petition.

6. With this direction to the respondents, this contempt petition is closed.

14.09.2023

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



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To:

1. The Joint Registrar of Cooperative Societies /
Chairman of Common Cadre Authority,
O/o.The Regional Joint Registrar
of Cooperative Societies,
Dindigul.
2. The Deputy Registrar of Cooperative Societies,
Palani Circle, Dindigul District.
3. The Administrator,
(In the place of President),
A.1410, R.Pudukkottai Primary Agricultural
Cooperative Credit Society,
R.Pudukkottai,
Gujjiliamparai Taluk,
Dindigul District.



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G.R.SWAMINATHAN,J.

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CONT.P.(MD)No.1767 of 2023 in
W.P.(MD)No.13947 of 2023

14.09.2023