



W.P.No.16265 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.BHARATHA
CHAKRAVARTHY**

**Writ Petition No.16265 of 2024
and W.M.P.No.17807 of 2024**

Mr.K.Baskar

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,
No.170, EVR Salai,
Kilpauk, Chennai – 10.

2. The Joint Registrar of Co-operative Societies,
No.3, Beach Road,
Cuddalore Region.

3. The Circle Deputy Registrar of Co-operative Societies,
No.6, Dhandapani Nagar,
Semmandalam, Cuddalore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in proceedings R.C.No.530/2024 E (2), dated 30.04.2024, quash the same and consequently direct the respondents to permit the petitioner to retire and disburse all the retirement and pensionary benefits to him.

For Petitioner	:	Mr.K.Selvakumar
For Respondents	:	Mr.M.S.Arasakumar Government Advocate



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ORDER

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2. The suspension order only refers to Rule 17(e) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules and an order of Joint Registrar, dated 30.04.2024. The suspension order does not specifically state any reason for suspension. Under Rule 17(e), a Government servant can be suspended if any enquiry into grave charges is contemplated or if any criminal case is pending investigation or trial.

3. The petitioner has asserted that no such charge memorandum is pending and no criminal case is pending.

4. In that view of the same, when the matter came up for admission today, the matter was passed over for the learned Government Advocate appearing on behalf of the respondents to get instructions.



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5. Learned Government Advocate, upon written instructions dated 24.06.2024, submitted that there are two complaints against him, which are given by the General Secretary of the Co-operative Employee's Association. The Deputy Registrar of Co-operative Societies, Cuddalore, by communication dated 30.04.2024, has ordered that the complaints have to be enquired into. Therefore, the petitioner is kept under suspension.

6. On a perusal of the said written instructions, it can be seen that the exercise of power is made without proper application of mind. There is no criminal case, which is pending investigation or trial against the petitioner and there is no charge memorandum as on date, which is pending against the petitioner. Therefore, the only ground available for the respondents to retain the petitioner under suspension is that there may be enquiry into serious charge that may be contemplated against the petitioner.

7. The reasons which are now given are in nascent stage. There is not even application of mind as to whether the disciplinary proceedings



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are to be contemplated or not. On the mere petition given by the Deputy Secretary of the Employee's Association, the petitioner cannot be suspended on the last day of his retirement. However, if there are any serious allegations against the petitioner, the Authorities can apply their mind and if only a disciplinary enquiry is contemplated upon making out a *prima facie* case of framing a charge, then they can retain the petitioner under suspension.

8. In that view of the matter, this writ petition is allowed on the following terms:

- i. The impugned order of suspension dated 30.04.2024 shall stand quashed.
- ii. The second respondent shall apply his mind in respect of service of the petitioner and pass appropriate orders permitting him to retire from service with effect from 30.04.2024, if there are no imminent serious charges, which are pending against him either in the form of a charge memorandum, which is not the case or if any charge memorandum is imminently contemplated. Only in that event, the second respondent will be entitled to pass fresh order of suspension



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by specifically mentioning the reason.

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iii. No costs. Connected miscellaneous petition is closed.

24.06.2024

Neutral Citation: No
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To

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D.BHARATHA CHAKRAVARTHY, J.

mp

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