



W.P.No.23261 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE VIVEK KUMAR SINGH

**W.P.No.23261 of 2021**  
**and W.M.P.No.24544 of 2021**

S.Uthayakumar

...Petitioner

vs.

1. The Registrar,  
Co-operative Societies,  
No.170, EVR High Road,  
Chennai – 600 010
2. The Joint Registrar,  
Co-operative Societies,  
Office of the Joint Registrar of  
C-operative Societies,  
Vengikkal,  
Thiruvannamalai – 606 604
3. The Deputy Registrar,  
Co-operative Societies,  
Office of the Deputy Registrar of  
Co-operative Societies,  
Vengikkal,  
Thiruvannamalai – 606 604
4. The Managing Director,  
Thiruvannamalai Agriculture Producers  
Co-operative Marketing Societies,  
No.1451/A, Vellore Main Road,  
Vengikkal, Thiruvannamalai – 606 604



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5. The President,  
Thiruvannamalai Agriculture Producers  
Co-operative Marketing Societies,  
No.1451/A, Vellore Main Road,  
Vengikkal, Thiruvannamalai – 606 604

...Respondents

**Prayer :** Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Certiorarified Mandamus, to call for the records of the 5<sup>th</sup> respondent made in proceedings dated 30.09.2020 and consequently proceedings no.NIL dated 27.07.2021 passed by the 4<sup>th</sup> respondent in respect of recovery of Rs.3,43,614/- and quash the same and direct the 4<sup>th</sup> respondent to pay a sum of Rs.3,43,614/- to the petitioner.

For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.S.Ravikumar

Special Government Pleader for R1 to R3

### **ORDER**

This writ petition is filed for issuance of Certiorarified Mandamus, to call for the records of the 5<sup>th</sup> respondent made in proceedings dated 30.09.2020 and proceedings no.NIL dated 27.07.2021 passed by the 4<sup>th</sup> respondent in respect of recovery of Rs.3,43,614/- and to quash the same and to direct the 4<sup>th</sup> respondent to pay a sum of Rs.3,43,614/- to the petitioner.

2. Heard the learned counsel on both sides and perused the materials available on record.



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3. The case of the petitioner is that he was initially appointed as a Clerk-cum-Typist on 18.01.1985 and was subsequently promoted as Senior Clerk and Manager. He attained superannuation on 30.04.2020. While he was working as Junior Assistant-in-charge, due to a shortfall in the sale of iron to the public during the year 2001-2002, the 5<sup>th</sup> respondent partially settled his service benefits, amounting to Rs.6,00,417/-. However, the petitioner is entitled to Rs.9,44,031/-, out of which Rs.3,43,614/- was deducted from his service benefits as per the proceedings of the 5<sup>th</sup> respondent dated 30.09.2020. Subsequently, the 4<sup>th</sup> respondent passed the impugned order dated 27.07.2021, deducting a sum of Rs.3,43,614/- from his service benefits without framing any charges or conducting a domestic enquiry against the petitioner based on the recommendation and resolution passed by the 5<sup>th</sup> respondent. Aggrieved over the same, the present petition has been filed.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 has cited the relevant paragraph in the counter affidavit, which is extracted below:

*"6. With regard to averments contained in para 7 and 8 of*



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*the affidavit, it is submitted that as observed by the Cooperative Tribunal the Society issued show cause notice to the petitioner in 4 respondent Memo dt. 02.04.2019 informing him that the Manager and other two Clerks are responsible for the deficit stock; Subramanian who worked as Manager retired and subsequently expired; Thiru R Manokaran who worked as Clerk retired and the remaining Clerk namely Thiru.Uthayakumar / Petitioner herein is working and under these circumstances, why can't the petitioner be held responsible for the stock deficit and instructed to submit his explanation on it and reminded on 04.06.2019. Both the memos were received by the petitioner. As such the contention of the petitioner is denied and liable to be dismissed.*

*i) Further it is submitted that Section 4 (6) (a) of Payment of Gratuity Act, 1972 permits the management to forfeit to the extent of the damage or loss so caused by an employee from the gratuity amount due to employee. As specified in Final Audit Memorandum for the year 2002-2002 as well the observation made by the Cooperative Tribunal in CTA No. 4/2018 dt. 14.02.2019, the petitioner is responsible for the stock deficit of Rs. 3,43,614/- and hence as specified in the Sec. 4 (6) (a) of Payment of Gratuity Act, 1972, the Management of the Society rightly resolved to effect the recovery of stock deficit from the terminal benefit of the petitioner by its Resolution dt. 30.09.2020 and recovered Rs.3,43,614/- from petitioner's eligible gratuity amount of Rs.6,70,607. Before effecting recovery, the petitioner*



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*was provided with ample opportunity by way of show-cause notice dt.02.04.2019 and 04.06.2019. Remaining terminal benefits viz., Encashment of Earned Leave salary of Rs.2,73,993/- and Employees Provident Fund of Rs.11,08,227/- was received by the petitioner on 06.10.2020 and 28.09.2020 respectively. There is no terminal benefits pending settlement to the petitioner."*

5. In view of the submissions and on a careful perusal of the materials available on record, a show cause notice was issued to the petitioner by the 4<sup>th</sup> respondent before passing the impugned order vide Memo dated 02.04.2019, who in turn submitted his explanation to it. Therefore, this Court finds no infirmity or illegality in the orders passed by the 4<sup>th</sup> and 5<sup>th</sup> respondent, the writ petition lacks merit and is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Cases : Yes/No  
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**VIVEK KUMAR SINGH. J.**

*mac*

To

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