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W.P.No.169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.169 of 2023

K.Amirthalingam

.. Petitioner

Vs.

1.The Deputy Registrar
Office of the Deputy Registrar,
Thirukovilur,
Kallakurichi District.

2.The President,
I.I.588, Sengurichi Primary
Agricultural Cooperative Credit Society,
Sengurichi.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of certiorarified Mandamus, to call for the records in connection with the order of the 1st respondent bearing Ref.No.Na.Ka.2142/2022 Tho.Ve.Sa dated 31.05.2022 and the subsequent letter of the 2nd respondent dated 31.05.2022 and the subsequent letter of the 2nd respondent dated 31.05.2022 not allowing the petitioner from retiring the service on attaining



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the age of superannuation by relieved him from service and quash the same and further direct the respondents to pay all the retirement benefits payable to the petitioner as if he was retired from on 31.05.2022.

For the Petitioner : Mr.Ganesan for
Mr.M.Kaviveerappan

For the 1st Respondent : No appearance

For the 2nd respondent : Mrs.E.Ranganayaki, AGP

ORDER

This Writ Petition is filed challenging the impugned order dated 31.05.2022. In the said impugned order, the 1st respondent directed the 2nd respondent to relieve the petitioner from the service upon attaining the age of superannuation without permitting him to retire from service. The reason mentioned in the impugned order is that the petitioner is facing a criminal case in Cr. No. 80/2017 for alleged offenses under the Essential Commodities Act 1995.

2. The case of the petitioner is that the petitioner was serving as a



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salesman in the second respondent's society and was due to retire from service on 31.05.2022 upon reaching the age of superannuation. However, without any power under relevant By-Laws or under the Tamil Nadu Cooperative Societies Act, the respondents have simply relieved the petitioner from service.

3. It is the contention of the petitioner that if the respondents want to impose any punishment, they can retain the petitioner in service beyond the age of retirement by suspending the petitioner from service. If they want to relieve the petitioner from service, then they have to only permit the petitioner to retire from service. Once the petitioner is permitted to retire from service, all the attendant benefits have to be paid.

4. By a separate order in CrI.O.P.No.1530/2013, this Court had directed the completion of proceedings in C.C.No.244/2018 within a period of four months. Pursuant to the said order, the trial was proceeded with, and ultimately, by a judgment dated 07.02.2024, the learned Judicial Magistrate



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No. I, Villupuram, acquitted the petitioner.

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5. A counter affidavit is filed in the present Writ Petition. The only reason which is stated to pass the impugned order is contained in paragraph No. 7, which reads as follows:

"Further, I humbly to submit that the petitioner is facing into the grave criminal case in the F.I.R.No.80/2017 under section 6(4) of the Tamil Nadu State Civil Supplies (RDCS) Orders 1982 r/w 7(1)(a)(ii) of the Essential Commodities Act, 1955, is now being in trial before the Villupuram Judicial magistrate Court No.I at the time of his superannuation on the dated 31.05.2022 and therefore the Deputy Registrar of Co-operative Societies, Tirukovilur circle has issued the instruction to the President of the said Primary Agriculture Co-operative Credit society in the letter Na.Ka.No.2142/2022, Tho.Ve.Sa.dated 31.05.2022 that the petitioner shall not be allowed to retire from service but to relieve him from the serices of the said Primary Agriculture Co-operative Credit Society. Therefore, the then President of the said Primary Agriculture Co-



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operative Credit Society ordered by relieving the petitioner from the services of the society on the superannuation date of 31.05.2022"

6. Therefore, now that the legality or otherwise of the order impugned in the Writ Petition need not be gone into, since the criminal case has also ended in acquittal. The respondents have to permit the petitioner to retire from service and consider payment of all the retirement benefits in accordance with the law. No other impediments are mentioned in the counter affidavit.

7. In view of the above, this Writ Petition is disposed of on the following terms:

- (i) The respondents shall consider the case of the petitioner and pass due orders permitting the petitioner to retire from service within a period of 4 weeks from the date of receipt of a copy of this order;
- (ii) Pursuant to the orders, the retirement benefits and all the



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amounts due shall also be paid to the petitioner within a period of 8 weeks from the date of receipt of a copy of the order.

(iii) No costs.

04.06.2024

Index : Yes
Neutral Citation : Yes
Speaking

jrs



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To

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- 1.The Deputy Registrar
Office of the Deputy Registrar,
Thirukovilur,
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- 2.The President,
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D.BHARATHA CHAKRAVARTHY, J.

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