



W.P.(MD)No.7512 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 27.11.2024

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.7512 of 2023**  
**and**  
**W.M.P(MD)Nos.7008 & 7009 of 2023**

M.Rajasekar

... Petitioner

VS

1.The Joint Registrar of Co-operative Societies,  
Madurai Region, Palanganatham,  
Madurai.

2.The Deputy Registrar of Co-operative Societies,  
Madurai Circle,  
Madurai.

3. The Deputy Registrar of Co-operative Societies,  
Periyakulam Circle,  
Periyakulam,  
Theni District.

4. M.P.93, Mayilattumparai Primary Agricultural  
Co-operative Credit Society, rep. by its  
President,  
Mayilattumparai,  
Theni District.

... Respondents



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**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the orders passed by the first respondent in R.C.No. 1835/2022.Estt(1) dated 31.05.2022 and in order R.C.No.1835/2022.Estt(2) dated 31.05.2022 and quash the same and consequently, direct the 1<sup>st</sup> respondent to allow the petitioner to retire on superannuation and relieve from service on 31.05.2022 A.N and disburse all the pensionary and other retirement benefits within a time limit as fixed by this Court

|                           |                                                  |
|---------------------------|--------------------------------------------------|
| For Petitioner            | : Mr.A.Thirumurthy                               |
| For Respondent Nos.1 to 3 | : Mr.A.Baskaran<br>Additional Government Pleader |
| For Respondent No.4       | : No appearance                                  |

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### **ORDER**

The instant writ petition has been filed by a Cooperative Sub-Registrar, who has attained superannuation but not to permitted to retire, challenging the order of suspension and the order of retention in service.



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2. A perusal of the impugned suspension order as well as retention order reveal that the petitioner has been implicated in a criminal case in Crime No.03 of 2021, on the file of CCIW Police Station, Theni District and the same is pending. As per the Fundamental Rule 56(1) explanation II(c) (iv), a Government Servant on reaching the age of superannuation cannot be permitted to retire, in case if a complaint of criminal offences is under investigation or trial, and he shall be retained in service until the trial is completed.

3. In view of the above said legal position, the Department has no other option than to place the writ petitioner under suspension and to retain him in service. In fact, the petitioner has already faced the departmental proceedings, in which punishment of Censure has already been passed. Therefore, as on the date of passing of retention order, only criminal case was pending as against the writ petitioner. In view of the Fundamental Rules as pointed above, the respondent authority cannot be found fault with for suspending the writ petitioner and retaining him in service.



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4. In view of the above said circumstances, there are no merits in this writ petition and the writ petition stands dismissed. However, the petitioner is at liberty to approach the authorities seeking permission to retiring from service depending upon the out come of the criminal case. No costs. Consequently, connected miscellaneous petitions are closed.

**27.11.2024**

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



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To

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**R.VIJAYAKUMAR, J.**

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