



W.P(MD)Nos.14592 of 2020 & 20762 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos. 20762 of 2017 & 14592 of 2020 and
WMP(MD) Nos.17051 to 17053 of 2017 & 12244 of 2020

W.P(MD)No.20762 of 2017 :-

A.Elangovan

... Petitioner

Vs

1.The Additional Registrar of Co-operative Societies/
Managing Director,
Tamil Nadu Co-operative Marketing Federation Ltd
(TANFED),
No.91, St. Marys Road,
Chennai - 18.

2.The Regional Manager,
Tamil Nadu Co-operative Marketing Federation Ltd
(TANFED),
No.1486, Thundi Road,
Sivagangai,
Sivagangai District.

... Respondents



W.P(MD)Nos.14592 of 2020 & 20762 of 2017

W.P(MD)No.14592 of 2020 :-

A.Elangovan

... Petitioner

Vs

The Managing Director,
The Tamilnadu Cooperative Federation,
No.91, St.Marrys Road,
Chennai-18.

... Respondent

PRAYER in W.P(MD)No.20762 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Rc.No.657/2013/EM10 dated 31.07.2014 and consequential impugned order passed by the 1st respondent in his Letter in Na.Ka.No.709/2017 Pa.Tho.3 dated 20.07.2017 and quash the same as illegal and consequentially to direct the respondents to settle the terminal benefits payable to the petitioner with 12% interest within the period that may be stipulated by this Court.

PRAYER in W.P(MD)No.14592 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire records connected to the impugned charge memo in Na.Ka.No.360/2019/Pa.Tho.3 dated, 12.07.2019 issued by the respondent and consequential intimation in Na.Ka.No.360/2019/Pa.Tho.3 dated, 29.09.2020 and quash the same as illegal.



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For Petitioner : Mr.C.Venkatesh Kumar for
M/s.Ajmal Associates

For Respondent : Mr. P.T.Thiraviam,
Government Advocate

(In W.P.No.20762 of 2017)

For Petitioner : Mr.S.Malaikani

For Respondent : Mr. S.Ramsundar Vijaya Raj

(In W.P.No.14592 of 2020)

COMMON ORDER

The petitioner, while he was serving as an Assistant Manager (In charge) at Regional Office of the Tamil Nadu Co-operative Marketing Federation Ltd (TANFED), Sivagangai was issued with charge memos, dated 22.07.2014 and 23.07.2014 at the verge of his retirement i.e. on 31.07.2014 on certain irregularities committed by him in the distribution of chemical fertilizers, while he was working in Pudukottai Region for the period from 09.02.2011 to 02.05.2012. Therefore, he was not permitted to retire from service by the Additional Registrar of Co-operative Societies/Managing Director, Tamil Nadu Co-operative Marketing Federation Ltd, (TANFED), Chennai/the first respondent herein in his proceedings in Rc.No.657/2013/EM10 dated 31.07.2014. On completion of



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enquiry, the charges levelled as against the petitioner were proved and he was imposed with a punishment of stoppage of increment for a period of two years without cumulative effect in both the charges, by order dated 01.07.2015 and the appropriate amount has been recovered from the petitioner's earned leave salary. Thereafter, the petitioner has submitted an application on 31.03.2017, sought for terminal benefits and the same was rejected by the first respondent, in his proceedings in Na.Ka.No.709/2017 Pa.Tho.3 dated 20.07.2017. The above two proceedings have been challenged by the petitioner in WP(MD) No.20762 of 2017.

2.Pending this writ petition, the petitioner was issued with another charge memo, dated 12.07.2019 for his dereliction of duty, thereby, he has caused a loss to the tune of Rs.2,26,000/- to the Federation and therefore, the Managing Director, the Tamil Nadu Co-operative Federation has called for an explanation from this petitioner on 29.09.2020. Both the proceedings are under challenge in WP(MD) No.14592 of 2020.



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3.Since the petitioner in both the writ petitions are one and the same and the issues in these writ petitions are interlinked, these writ petitions are taken up for disposal by this common order.

4.The learned counsel for the petitioner submits that though the enquiry contemplated as against this petitioner vide charge memos dated 22.07.2014 and 23.07.2014 were concluded with a punishment of stoppage of increment, by order dated 01.07.2015, he was not allowed to retire from service on his superannuation on 31.07.2014. According to the petitioner, just ten days prior to his date of retirement, he was issued with two charge memos on 22.07.2014 and 23.07.2014. The petitioner has not challenged the order of punishment and it becomes final. In the meantime, he was also issued with another charge memo on 12.07.2019, i.e. after five years from the date of his superannuation. The main grievance of the petitioner is that he has not been settled with terminal benefits.



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5.The learned counsel for the respondents submits that the Deputy Registrar (Internal Audit) has recommended to initiate Arbitration claim and criminal action on the petitioner and others, who committed irregularities in the sale of fertilizers in Pudukottai Region. Based on the recommendation of the Deputy Registrar (Internal Audit), the Federation has addressed a communication, dated 23.07.2018 to the Regional Joint Registrar of Co-operative Societies, Pudukottai Region to order for an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 and an enquiry was also ordered on 07.08.2018. On receipt of enquiry report, under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, action would be initiated as against this petitioner. He further submits that the loss caused to the Federation by the petitioner, during his tenure would be recovered from the retirement benefits payable to the petitioner, as per the provisions contained in No.32 of the Special Byelaws of the Federation. The learned counsel further submits that the petitioner has filed a revision petition No.11 of 2017, before the Additional Registrar of Co-operative Societies, Chennai, under Section 153 of the Tamil Nadu Co-operative



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Societies Act, 1983 on 21.08.2017 and the same is pending. The learned counsel further submits that in view of the pendency of these writ petitions, they have not proceeded with the enquiry further.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The grievance of the petitioner is that he was issued with charge memos at the verge of his retirement and after attaining the age of superannuation, due to which, he was also not settled with the terminal benefits. The disciplinary proceedings has been initiated as against this petitioner and out of the three charge memos, the enquiries in two charge memos have been concluded with the order of punishment. However, the petitioner has not challenged the punishment order. The only impediment is that the pendency of the third charge memo. According to the respondents, they have not proceeded with the third charge memo, in view of the pendency of these writ petitions. Mere pendency of the writ petitions is not a bar for proceeding with the enquiry. However, the Federation has not



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proceeded with the enquiry by referring the writ petitions. It is a settled position of law that at the stage of charge memo, the Courts are not supposed to interfere, unless if it has been issued by an incompetent authority or issued with some malafides. The petitioner has not taken any such grounds that these impugned charge memos have been issued by an incompetent authority and have been issued with certain malafides.

8. In view of the above and considering the fact that third charge memo, dated 12.07.2019 is still pending at the stage of enquiry and the petitioner was not allowed to retire from service, in view of the pendency of the charge memo and he has not been settled with terminal benefits, this Court is inclined to dispose of these writ petitions with a direction to the respondents to conclude the disciplinary proceedings initiated as against this petitioner, on a day-to-day basis and conclude the same within a period of three months from the date of receipt of copy of this order. The petitioner is expected to co-operate with the disciplinary authority for early conclusion of the disciplinary proceedings.



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9. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.11.2024

NCC: Yes/No
Index: Yes
vrn



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B.PUGALENDHI, J.

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Common Order made in
W.P(MD)Nos. 20762 of 2017 & 14592 of 2020 and
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