



WP(MD) No.13587 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.13587 of 2024
and
W.M.P(MD)No.11972 of 2024

K.Pandi

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
O/o.The Joint Registrar of Cooperative Societies,
Madurai Region,
Madurai.
- 2.The Deputy Registrar of Co-operative Societies,
O/o. the Deputy Registrar of Cooperative Societies,
Madurai Circle,
Madurai.



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3.The Administrator

A.3101, Madurai Milk Project Employees,
Cooperative Thrift and Credit Society Limited,
Sathamangalam,
Madurai - 625 020.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to consider the petitioner's representation dated 28.05.2024 and consequently direct the 3rd respondent to issue No Due Certificate in respect of the Membership No.1799 enabling him to retire from service on 31.07.2024 from Madurai District Cooperative Milk Producers Union.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.M.Senthil Ayyanar

Government Advocate



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ORDER

The present writ petition has been filed seeking a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 28.05.2024 and consequently, direct the 3rd respondent to issue “No Due Certificate” in respect of the Membership No.1799 enabling him to retire from service on 31.07.2024 from Madurai District Co-operative Milk Producers Union.

2. Heard Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner and Mr.M.Senthil Ayyanar, learned Government Advocate appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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4. The petitioner who has already faced surcharge proceedings and got a surcharge award, dated 18.02.2021, has filed this writ petition seeking a direction to the respondents to consider his representation, dated 28.05.2024 and direct the third respondent to issue “No Due Certificate”.

5. The submission of the petitioner is that he is going to retire from service on 31.07.2024 and the award issued against him by holding that the employees on the Board of Directors are responsible for the loss sustained by the society, cannot be a bar in allowing the petitioner to retire by giving him the retirement benefits.

6. The learned counsel for the petitioner submitted that similarly placed persons have already raised this issue in yet another writ petition in W.P.No.25923 of 2021, wherein it is held that the terminal benefits cannot be withheld in view of the surcharge award passed against an employee.



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7. The learned Government Advocate submitted that on the very same allegations, a criminal case has been registered in Crime No.1 of 2020 and disciplinary action has also been initiated against the petitioner and the same is pending.

8. Even according to the petitioner, in the criminal case he was given with anticipatory bail. However, the prosecution has filed CrI.O.P.(MD)No.10062 of 2020 for cancelling the anticipatory bail granted to him. However, the Court dismissed the same, but by imposing a condition of providing a security of immovable properties worth about Rs.50,00,000/- (Rupees Fifty Lakhs only).

9. Attention of this Court was drawn to the surety given and the proceedings issued in this regard by the Principal District and Sessions Judge, Madurai, dated 25.01.2021. Similar to the petitioner, other employees and Board of Directors, who have been found fault, have also been provided security and the total surety



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given in terms of the immovable property given as security would be Rs.25 Crores. In fact, the respondent Society has attached the said properties also.

10. The learned Government Advocate submitted that the loss caused to the Society have been determined at Rs.7,92,41,752/- (Rupees Seven Crores Ninety Two Lakhs Forty One Thousand Seven Hundred and Fifty Two only).

11. It is needless to state that the surcharge award is like that of the revenue to the Government and revenue recovery proceedings is very much applicable for recovering the said award amount. When security in terms of immovable property has already been given and the respondent Society has also taken action by attaching the same, the terminal benefits of the employee cannot be withheld without any ultimatum.



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12. In the instant case, even though there is no order passed as to the terminal benefits payable to the petitioner, the petitioner apprehends that in view of the non-issuance of “No Due Certificate”, he will not be allowed to retire and his terminal benefits will not be disbursed to him, consequent to the date of attaining his superannuation.

13. As stated already, there cannot be any hurdle in issuing “No Due Certificate” to the petitioner, however, with a condition that the surcharge amount recoverable from the petitioner will be done by having charge over the immovable properties given as surety by the petitioner to the Court in pursuant to the orders passed in CrI.O.P.(MD)No.10061 of 2020.

14. With these observations, this writ petition is disposed of, with a direction to the respondents to consider the petitioner's representation, dated 28.05.2024, positively, by issuing “No Due Certificate” to the petitioner within a period of one week



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from the date of receipt of a copy of this order. No costs.

Consequently, connected miscellaneous petition is closed.

26.06.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.13587 of 2024

26.06.2024