

W.P.NOS.12242 & 12244 OF 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NOS.12242 AND 12244 OF 2025

AND

WMP NOS.13810 AND 13813 OF 2025

M.Senthilvelan

... Petitioner
in both WPs'

VS.

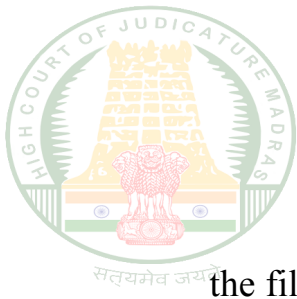
1.The Deputy Registrar of Co-operative
Societies
Dharmapuri Circle, Dharmapuri.

2.No.1512, Dharmapuri Co-operative
Town Bank Ltd.,
Rep. By its Administrator
63/A, Duraisamy Naidu Street, Dharmapuri.

3.R.Prem
Administrator
No.1512, Dharmapuri Co-operative
Town Bank Ltd.,
63/A, Duraisamy Naidu Street, Dharmapuri.

... Respondents 1-3
in both WPs'

PRAYER IN W.P.NO.12242 / 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the records of the charge memo in Na.Ka.92/2004 Tha.Ku.Na.Va dated 25.08.2004 and consequential notice in Na.Ka.No.92/2004 Tha.Ku.Na.Va dated 10.03.2025 and 26.03.2025 on



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the file of the 2nd respondent quash the same and direct the respondents to settle the petitioner's service benefits at the time of retirement.

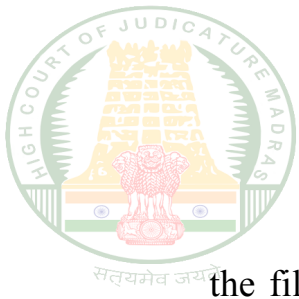
PRAYER IN W.P.NO.12244 / 2025: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, to call for the records of the order of suspension passed by the 2nd respondent in Na.Ka.No.11/2025 Pa.Tho. dated 29.03.2025 and quash the same.

For Petitioner (in both WPs')	: Mr.M.S.Palaniswamy
For Respondent-1 (in both WPs')	: Mr.A.Tamil Nidhi Additional Government Pleader
For Respondent-2 (in both WPs')	: Mrs.C.Meera Arumugam Additional Government Pleader
For Respondent-3 (in both WPs')	: Mr.P.S.Siva Shanmuga Sundaram

COMMON ORDER

Both writ petitions were filed by the same petitioner and arguments were advanced in common by the learned counsel for the petitioner and the learned Additional Government Pleader for the first and second respondents and therefore, a common order is passed.

2.The writ petition in W.P.No.12242 of 2025 has been filed in the nature of a Certiorarified Mandamus seeking records relating to the charge memo dated 25.08.2024 and consequential notice in Na.Ka.No.92/2004 Tha.Ku.Na.Va. dated 10.03.2025 and 26.03.2025 on



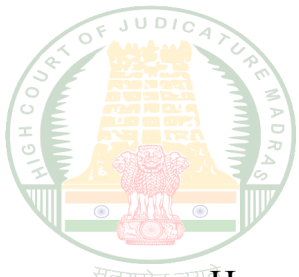
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the file of the second respondent and to quash the same. The petitioner seeks that his service benefits be settled, as he will be attaining the age of superannuation on 30.04.2025.

3.The writ petition in W.P.No.12244 of 2025 has been filed in the nature of a Certiorari seeking records relating to an order of suspension passed by the second respondent dated 29.03.2025 in Na.Ka.No.11/2025 Pa.Tho and quash the same.

4.In the affidavit filed in support of these writ petitions, it had been contended that the writ petitioner M.Senthilvelan had been appointed as Junior Assistant in the second respondent Bank / Dharmapuri Co-operative Town Bank Ltd., Dharmapuri on 02.01.1991. Subsequently, he was promoted as Assistant Manager on 07.03.2024 and later, as General Manager in-charge from 11.01.2024 to 21.01.2025. He is now functioning as Assistant Manager in the second respondent Bank. He is set to retire from service upon attaining the age of superannuation on 30.04.2025. In the affidavit, the writ petitioner categorized his services as 'unblemished with the satisfaction of all concerned for the past 34 years.'



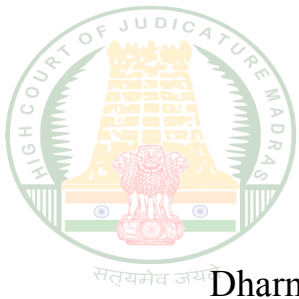
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However, as the records reveal, this is not the case.

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5.Charges have been levied against the petitioner for fraud and that the second respondent Bank has suffered a loss of Rs.2,87,48,492.30. The allegation of such a significant loss can never be categorized as 'unblemished service with the satisfaction of all concerned.' The petitioner must clear his records before placing the blame on the respondents for suspending him and issuing a charge memo against him.

6.The learned counsel for the petitioner claimed that the charge memo, which is the subject matter in W.P.No. 12242 of 2025, was dated 10.03.2025 and in the reference, there was a reference to a show cause notice issued on 19.11.2005. The learned counsel for the petitioner challenged the charge memo on the grounds that the show-cause notice was initially issued in 2005, and after 20 years, the respondents have suddenly taken action against the petitioner. In this connection, reliance is placed by the learned counsel for the petitioner on an order dated 07.03.2024 passed by the former Administrator of the second respondent



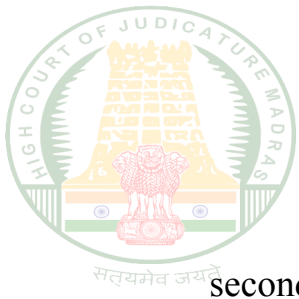
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Dharmapuri Co-operative Town Bank Ltd., Dharmapuri, M.Raja, who gave his opinion that initiation of any action against the petitioner is time barred and therefore, the petitioner should be permitted to retire with all pending benefits.

7.However, in the counter affidavit, an additional fact has been stated which was not disclosed in the affidavits filed in support of these writ petitions. It is noted that M. Raja, Deputy Registrar, who had provided such an opinion in favour of the petitioner, has been suspended from Government service as per G.O. (2D) No. 41, Co-operation, Food and Consumer Protection (CD-2) Department, dated 29.04.2024. He passed the order in favour of the petitioner on 07.03.2024, and was subsequently suspended from service on 29.04.2024. The noting of the Deputy Registrar M.Raja is only worth considering in that context, and it does not constitute a finding on the matter. The second and third respondents, against whom the petitioner has alleged *malafide* charges, have every right to proceed against the petitioner. To disprove these claims, it is appropriate that the facts be narrated in more detail.

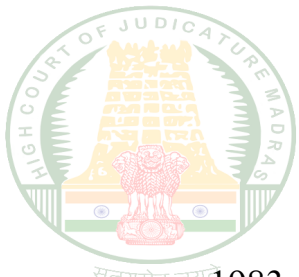
8.While the petitioner was working as an Assistant at the



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second respondent Bank, computerization was initiated and M/s.Ahana Computers, Dharmapuri, was appointed as the agency to carry out the computerization. They had also been awarded the Annual Maintenance Contract. It is stated that M/s.Ahana Computers and its owner, Thangavel, maintained separate accounts with the bank and an additional account was opened in the name of his brother, Selvam. The owner of M/s.Ahana Computers, Thangavelu, developed the necessary software for automation, had control over the database, and also possessed the passwords and access to the ledger accounts of the bank's customers. They are experts in the field and maintained the database, giving them enhanced control over the actual credit. They siphoned off the differences by transferring the funds to various other accounts in which they had a stake. It is also alleged that several irregularities were committed by giving credits and siphoning off the differences which were transferred to various other accounts in which the owner Thangavelu, had a stake. It has been contended that the employees of the bank, including the petitioner had failed to perform their monthly duties relating to the activities of M/s.Ahana Computers. After these irregularities were discovered, an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act,

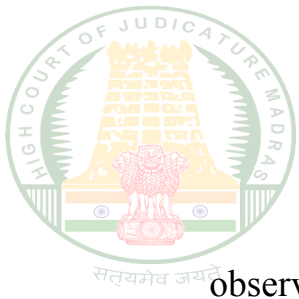


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1983 was initiated and the report was submitted on 09.12.2003.
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9.This fact was pointed out by the learned counsel for the petitioner, who claimed that in W.P.No.12242 of 2025, the petitioner has challenged a charge memo dated 10.03.2025, which references an earlier show-cause notice issued in 2005. The petitioner protects the initiation of action after twenty years. It is contended that, following the charge memo, an enquiry was conducted and concluded, with the enquiry report stating that the charges were proved.

10.It is also important to note that in response to various findings, the petitioner moved the Court. One such instance is C.R.P. (NPD) Nos.614 of 2022, etc., in which the petitioner, as the fourth petitioner along with five others, filed separate Civil Revision Petitions challenging the judgment and decree dated 21.09.2011 of the District Co-operative Tribunal, Dharmapuri / Principal District Court, Dharmapuri in CMA (CS) No.47 of 2008, etc., wherein a decree was passed against the petitioner. A learned Single Judge of this Court, by a common order dated 21.04.2022, deemed it appropriate to allow the Revision Petition. It was



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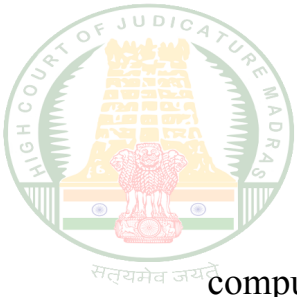
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observed that the petitioner had not committed any irregularities or charges. The respondents, however have taken into account the enormous amount of misappropriated funds involved.

11.The second respondent Bank also filed SLP before the Hon'ble Supreme Court and an interim stay on the order of the learned Single Judge was granted by the Hon'ble Supreme Court. Thus, this only revives the judgment and decree passed by the Co-operative Tribunal / Principal District Court, Dharmapuri.

12.Additionally, it appears that a criminal case has also been initiated against the petitioner. After the completion of the investigation, a final report was submitted, and cognizance was taken in C.C.No.234 of 2020, by the Judicial Magistrate – II, Dharmapuri.

13.The petitioner, along with two others, filed CrI.O.P.No.22561 of 2022 seeking to quash the Calendar Case. A learned Single Judge of this Court, by order dated 30.08.2023, held that the petitioner was categorized as A14, and that the entire operation of



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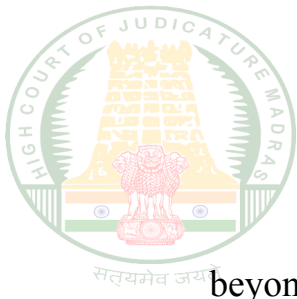
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computerization was carried out only by A1, and therefore, the charges against the petitioner were deemed not applicable, and the learned Single Judge deemed it appropriate to quash the Calendar Case against the petitioner and the two others.

14.The learned counsel for the petitioner placed strong reliance on the order of the learned Single Judge. However, this does not absolve the petitioner from facing an enquiry regarding misappropriation.

15.When there is an allegation of misappropriation by an employee of the Co-operative Society, the respondent/Co-operative Society has a right to file a criminal complaint and also initiate proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. They also have the right to initiate disciplinary proceedings against the petitioner. However, while the facts and evidence may be the same, they should still be properly evaluated. The evidence have to be evaluated from different viewpoints for all three courses, each examining a distinct aspect.

16.In a criminal case, it is the responsibility of the Magistrate overseeing the trial to determine whether the charges have been proved

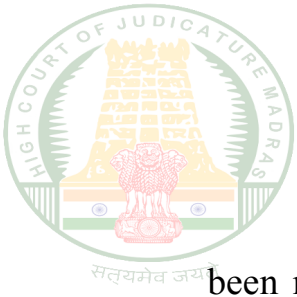


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beyond reasonable doubt. In proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, which is a fact-finding enquiry, it must be examined whether further proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, which involve surcharge proceedings, are necessary to determine liability. In disciplinary proceedings, the Bank has every right to initiate action against an employee for misconduct and for violation of rules, including failure to uphold proper conduct and involvement in misappropriation. While the investigation and the evidence may be the same across different proceedings and the nature of the evidence tendered by the witnesses would also remain the same and the documents relied upon may be the same, but they can still serve distinct and separate purposes in each proceeding. In other words, disciplinary proceedings and criminal proceedings are independent and do not operate simultaneously. Disciplinary proceedings may be kept in abeyance but cannot be set aside merely because criminal case is pending.

17. In the present case, the criminal trial has not moved through its full course. Witnesses have not been examined and there has



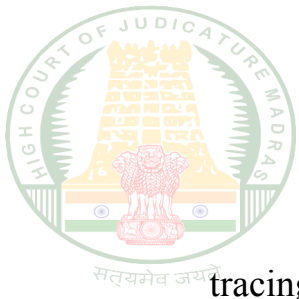
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been no opportunity to adduce oral or documentary evidence, nor have such evidence been subjected to scrutiny or proof. In fact, no substantial evidence has been advanced at all. The Calendar Case was quashed solely on a narrow ground—namely, that A1 alone was said to be responsible for the core operations and that there was only a remote possibility of the petitioner having knowledge of the misappropriation.

18.However, in the disciplinary proceedings now initiated, the focus is on whether the petitioner had discharged his duties responsibly. This aspect must be examined independently, regardless of the criminal proceedings.

19.It is contended on behalf of the third respondent that separate disciplinary proceedings have been initiated against the petitioner, necessitating issuance of a charge memo and placing the petitioner under suspension. The respondents have every right to proceed against the petitioner in order to examine the nature of the allegations, investigate the cause of the loss exceeding Rs.2/- crores, and determine whether any fraud or misappropriation of funds occurred, including



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tracing the flow of the misappropriated money. Whether the actions taken are proper or not must be assessed in light of the fact that the Hon'ble Supreme Court has granted a stay of the order of the learned Single Judge, thereby reviving the judgment and decree passed against the petitioner by the Co-operative Tribunal / Principal District Court.

20. These are all matters that require thorough examination. It cannot be accepted that the enquiry notice issued in 2005 and the subsequent proceedings initiated in 2025 are disconnected, as they form part of a continuous series of actions stemming from the initial discovery of the misappropriation. Whether the petitioner was involved in the misappropriation, and whether his involvement continued thereafter, are matters that require examination. The respondents must be given an opportunity to determine these facts through proper proceedings. The petitioner will have to abide by the proceedings initiated against him. Although the petitioner has the benefit of two separate orders in his favour, that does not mean this Court must absolve him of all the allegations made against him. The respondents have every right to proceed against the petitioner, particularly considering the substantial



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amount involved and the fact that the petitioner was in service at the relevant time.

21.The order passed by the former Deputy Registrar/Administrator of the second respondent Bank, absolving the petitioner of the charges, cannot be taken at its face value. It holds no legal validity and in fact, by favouring the petitioner, the official himself is now facing an order of suspension. The petitioner cannot rely on that order to claim exoneration. It does not absolve him of the allegations, nor does it prevent the respondents from proceeding with the disciplinary action. It is for the appropriate authority, following due process, to determine the petitioner's liability.

22.The learned counsel for the petitioner relied on the order of the learned Single Judge in ***W.P.No.29334 of 2012 [P. Karunagaran vs. The Secretary to Government, Highways Department, Chennai, and others]*** dated 17.03.2022, wherein the learned Single Judge had examined a charge memo dated 14.03.2005 and proceedings dated 18.09.2012, and quashed the same on the ground of delay. The learned



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Single Judge had placed reliance on the Hon'ble Supreme Court's rulings, wherein it was observed that an explanation for the delay in moving forward after the charge memo had been issued was not provided. In the present case, the delay has been explained. The date of issuance of the show cause notice has been stated. The petitioner has avoided providing an effective reply to the show cause notice and had instead moved from Court to Court seeking orders on the allegations. The order of the learned Single Judge in the cited case is based on specific facts. The petitioner is entitled an explanation, but that does not absolve him of his obligations.

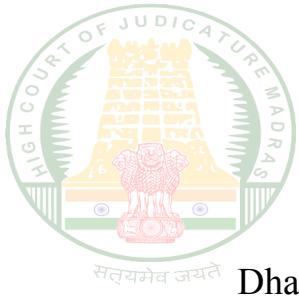
23. I do not find any merits in the writ petitions and therefore, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.04.2025

Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
TK

To

1.The Deputy Registrar of Co-operative
Societies



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WEB COPY Dharmapuri Circle,
Dharmapuri.

2.The Administrator
No.1512, Dharmapuri Co-operative
Town Bank Ltd.,
63/A, Duraisamy Naidu Street,
Dharmapuri.



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C.V.KARTHIKEYAN, J.

TK

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