



WEB COPY

W.P No.20878 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2025

CORAM

THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Writ Petition No.20878 of 2025

and

Writ Miscellaneous Petition Nos.23589 & 23591 of 2025

N.Velusamy

... Petitioner

..Vs..

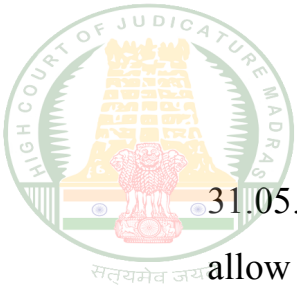
1.The Joint Registrar of Co-operative Societies/
Chairman Common Cadre Committee,
Namakkal Region,
Namakkal.

2.The Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Namakkal District.

3.S.N.298, S.Manapalli Primary Agricultural
Co-operative Credit Society,
Rep by its Administrator,
Manapalli (Post),
Mohanur Taluk, Namakkal District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records of Na.Ka.No.2436/2025/tho.va.sa (2025 NKL28101) dated 23.05.2025 on the file of the 2nd respondent and consequential order of the 3rd respondent dated



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31.05.2025 quash the same and direct the 1st respondent to pass suitable orders allow the petitioner to retire from service as Secretary of the 3rd respondent society on 31.05.2025 and pay all the petitioner's service benefits with statutory interest.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.K.Tamil Vendan,
Government Advocate for RR1 & 2

Mr.M.S.Arasa Kumar,
Government Advocate for R3

ORDER

The instant writ petition has been filed seeking certiorarified mandamus directing the respondents to settle the retirement benefits and to quash the order dated 23.05.2025.

2. The learned counsel appearing on behalf of the petitioner would submit that, by referring letter dated 23.05.2025, the respondents are not releasing the terminal benefits of the petitioner. The learned counsel would further submit that, according to the Tamil Nadu Co-operative Societies Act, when a person is ordered to be retired, then, the question of withholding the retirement benefits is illegal and which position was upheld by this Court, by



way of a Full Bench decision of this Court in the case of ***S.Andiannan vs.***

The Joint Registrar, Co-operative Societies, Madurai Region, Madurai and

another reported in ***2018 (3) LW 513***. Hence prayed to interfere with the

same.

3. Per Contra, the learned Government advocate appearing on behalf of the respondents would vehemently contend that the petitioner has caused huge loss to the Society. Hence, they have initiated enquiry under Section 81 of the said Act against him. Therefore, until the proceedings under Section 81 enquiry comes to its logical conclusion, the petitioner is not entitled for retirement benefits. In this connection, the learned Government Advocate has also relied upon the Co-operative Societies Service Rules. Hence, he prayed this Court not to interfere with the impugned order.

4. I have given my anxious consideration on either side submissions.

5. The main contention that should be looked into in the present writ petition is as to whether mere pendency of the enquiry proceedings under Section 81 is a bar to release the retirement benefits.



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6. The Hon'ble Supreme Court, time and again has categorically held that the payment of terminal benefits should not be delayed unless there is law to withhold otherwise, the same would offend the Article 300-A of the Constitution of India. Therefore, unless there is a specific provision for withholding of terminal benefits on account of any disciplinary proceedings or surcharge proceedings, such withholding cannot be undertaken. In the case on hand, admittedly, except Section 81 enquiry, there are no other proceedings pending against the petitioner. Apart from that, the learned Government Advocate would invite the attention of this Court about the Tamil Nadu Co-operative Societies Service Rules and would contend that the employees of the Co-operative Societies are not entitled for terminal benefits whenever they were removed or dismissed from service. But in the case on hand, the petitioner was neither removed nor dismissed from service whereas he was permitted to retire, vide order dated 31.05.2025 passed by the respondents.

7. At this juncture, this Court would like to refer the Full Bench Judgment of this Court in *S.Andiyannan vs. The Joint Registrar, Co-operative Societies, Madurai Region, Madurai and another reported in 2018 (3) LW 513*, where, while answering the reference that whether during



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the pendency of surcharge proceedings, the employee of a Co-operative Society is entitled for terminal benefits or not, was answered that unless there is a specific provision in the Tamil Nadu Co-operative Societies Act, the terminal benefits cannot be withheld. The Full Bench has also held that initiation of surcharge proceedings after the retirement, is found to be illegal. Apart from that, the Full Bench has further answered that the continuance of disciplinary proceedings after the employee is permitted to be retired is also found to be illegal.

8. In such view of the matter, in the case on hand, the petitioner was neither removed from service nor terminated from service and apart from that, mere pendency of disciplinary proceedings is not a bar to release the terminal benefits. In the case on hand, even though there is no disciplinary proceedings or surcharge proceedings or criminal proceedings against the petitioner, there is a pendency of the proceedings under Section 81 enquiry, which cannot be a bar against the petitioner to withhold the terminal benefits.

9. In such view of the matter, this Court finds grounds to interfere with the impugned order dated 23.05.2025 and the same is quashed. Further, the



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respondents are directed to settle all the terminal benefits of the petitioner within a period of three (3) months from the date of receipt of a copy of this order.

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10. At this juncture, the learned Government Advocate appearing for the respondents would submit that the petitioner has to handover the charge to one Mrs.Yasodha. Such contention was strongly objected by the learned counsel for the petitioner, however, if the petitioner has not handed over the charge to Mrs.Yasodha, the petitioner is directed to hand over the same forthwith.

11. In the result, the Writ Petition is allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petitions are also stand closed.

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Index : Yes

Speaking Order : Yes /No

Neutral Citation Case: Yes/No



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C. KUMARAPPAN, J.

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