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W.A.(MD)NO.1174 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)Nos.1174, 1210 & 1253 of 2025 AND

C.M.P.(MD)Nos.7334, 7531 & 7711 of 2025

W.A.(MD)No.1174 of 2025

The Administrator,
NN 406, P.Kodikulam Primary Agricultural
Co-operative Society,
P.Kodikulam, Paramakudi Taluk,
Ramanathapuram District. ... Appellant / 3rd Respondent

Vs.

1. A.Elamathiyan ... Respondent No.1 / Petitioner

2. The Regional Joint Registrar of Co-operatives
Ramanathapuram Region,
Ramanathapuram.

3. The Circle Deputy Registrar of Co-operatives
Paramakudi Circle,
Paramakudi,
Ramanathapuram District. ... Respondents 2 & 3/
Respondents 1 & 2

Prayer: Writ appeal filed under Clause 15 of the Letters Patent,
to set aside the order passed by this Court in W.P.(MD)No.554 of
2024 dated 22.01.2025 and allow the writ appeal.



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W.A.(MD)NO.1174 OF 2025

For Appellant : Mr.M.Pozhilan,
for M/s.C.Arulvadivel Associates.

For Respondents : Mr.C.Jeganathan
* * *

W.A.(MD)No.1210 of 2025

The Joint Registrar of Co-operative Societies/
Common Cadre Authority,
O/o.The Joint Registrar of Co-operative Societies,
Tenkasi Region,
Tenkasi.

... Appellant / 1st Respondent

Vs.

1. A.Krishnan

... Respondent No.1 / Petitioner

2. The Deputy Registrar of Co-operative Societies,
O/o.the Deputy Registrar of Co-operative Societies,
Tenkasi Circle, Tenkasi.

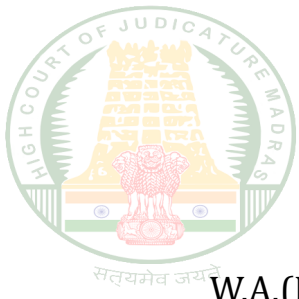
3. The Administrator,
Thili.Thani.116, Idaiyankulam Primary
Agricultural Co-operative Credit Society,
Idaiyankulam,
Tenkasi District.

... Respondents 2 & 3/
Respondents 2 & 3

Prayer: Writ appeal filed under Clause 15 of the Letters Patent,
to set aside the order dated 30.01.2025 passed in W.P.(MD)No.25937
of 2024 by allowing the writ appeal.

For Appellant : Mr.A.Kannan,
Additional Government Pleader.
For R-1 : Mr.D.Shanmugaraja Sethupathi
For R-2 & R-3 : No appearance.

* * *



W.A.(MD)No.1253 of 2025

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The Joint Registrar of Co-operative Societies/
Common Cadre Authority,
O/o.The Joint Registrar of Co-operative Societies,
Tenkasi,
Tenkasi District.

... Appellant / 2nd Respondent

Vs.

1. K.Subramanian

... Respondent No.1 / Petitioner

2. The Registrar of Co-operative Societies,
O/o.the Registrar of Co-operative Societies,
No.170, N.V.Natarajan Maaligai,
E.V.R.High Road, Kilpauk,
Chennai – 600 010.

3. The Deputy Registrar of Co-operative Societies,
O/o.the Deputy Registrar of Co-operative Societies,
Tenkasi, Tenkasi District.

4. The Management,
Thili.Thani.150, Mettupatti Primary Agricultural
Co-operative Credit Society,
Rep. by its Administrator,
Ramanathapuram, Sivagiri Taluk,
Tenkasi District.

... Respondents 2 to 4/
Respondents 1, 3 & 4

Prayer: Writ appeal filed under Clause 15 of the Letters Patent,
to set aside the order dated 09.01.2025 passed in W.P.(MD)No.23569
of 2024 by allowing the writ appeal.

For Appellant : Mr.N.Satheesh Kumar,
Additional Government Pleader.



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For R-1 : Mr.D.Shanmugaraja Sethupathi

For R-2 & R-3 : No appearance.

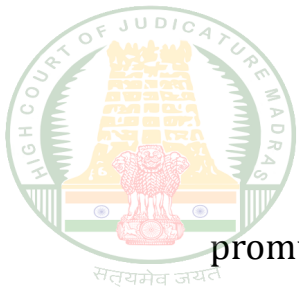
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COMMON JUDGMENT

Heard both sides.

2. These writ appeals have been filed by the management of the Cooperative Society / Cooperative Department assailing the orders of the learned single Judge quashing the orders whereby the writ petitioners were placed under suspension and retained in service. W.P.(MD)No.554 of 2024 is a case of termination. All the writ petitioners were holding the post of Secretaries of the respective Primary Agricultural Cooperative Credit Societies. It is not in dispute that the said post falls within common cadre service.

3. Originally, they were all employees of the respective Primary Agricultural Cooperative Credit Societies and governed by special bylaws regarding service condition of the employees of the Primary Agricultural Cooperative Credit Societies. Following the



promulgation of G.O.(Ms).No.14 Co-operation, Food and Consumer Protection (CN1) Department dated 12.02.2019, the post of Cooperative Secretary came to be borne on common cadre. The writ petitioners were governed by the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules 2019.

4. The question that calls for consideration is whether they should have been allowed to retire on their reaching the age of superannuation or placed under suspension and retained in service on the ground of their implication in criminal case. The learned single Judge quashed the orders impugned therein and allowed the writ petitions as prayed for.

5. We are of the view that the issue raised in these writ appeals is no longer *res integra*. The Hon'ble Division Bench vide order dated **28.09.2021 in W.A.Nos.2220 and 2466 of 2021(S.307, Muthukalipatti Primary Agricultural Co-operative Credit Ltd., V. V.Viswanathan and others)** had held as follows:-

“7. Unless otherwise the bye-law provides, the employee cannot be proceeded against after



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retirement. This will be applicable to all categories provided they do not come under the purview of G.O. dated 12.02.2019 creating common cadre. Once he comes into the common cadre, for the incident that took place prior to 12.02.2019, the authority competent to deal with the employees in the common cadre is entitled to proceed with the enquiry, but it shall be done only in terms of the clauses mentioned in the G.O. The G.O. has nowhere stated that the employee could be continued to be kept under suspension even after attaining the age of superannuation or there is no saving clause in the G.O. that if there are any conflict between the bye-law and the G.O, the clauses that are not going to be affected by the G.O. would continue to be in operation. In the absence of the enabling provision to continue departmental action of those employees falling under the common cadre, even though the incident would have taken place much prior to G.O. dated 12.02.2019, in the absence of specific clause in the G.O. to proceed departmentally after retirement, the appellant cannot proceed with the departmental action against the writ petitioner.”



6. We are in respectful agreement with the aforesaid decision.

The learned Additional Government Pleader appearing for the appellants submitted that the writ petitions ought to have been dismissed for non-exhaustion of alternative remedies. It is well settled that when the orders impugned in the writ petitions suffer from lack of jurisdiction, the writ petitioners need not be relegated to avail the alternative remedies but can be permitted to invoke the writ jurisdiction straightaway. It is true that as pointed out by the learned Additional Government Pleader, there is a specific provision in the special bylaws providing for retaining the employees under suspension in service even on his attaining the age of superannuation. Clause 31 of the said special bylaws reads as follows:-

“31.SUSPENSION

(1) An employee of the society may be placed under suspension from service where

(I) an inquiry into grave charges against him is contemplated or pending; or

(ii) a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest or in the interest of the society:



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Provided that an employee who is detained in custody whether on a criminal charge or otherwise for a period longer than forty eight hours shall be deemed to have been suspended under this clause.

(2) The authority competent to suspend an employee may grant to the employee suspended, subsistence allowance in accordance with the provisions of the Tamil Nadu Payment of Subsistence Allowance Act 1881:

(3) The period of suspension already undergone may also be awarded as a penalty to an employee to the extent considered necessary by the authority imposing the penalty.

(4) The employee under suspension shall not be allowed to retire on attaining the age of super-annuation. His suspension shall be deemed to have been extended till the disposal of the disciplinary proceedings against him. During the extended period, the service rights accrued to the employee shall freeze on the date of super-annuation and the employee and not be entitled for subsistence allowance.”

7. We are however unable to accept the said contention. This is because following the promulgation of the common cadre service



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rules in the year 2019, the special bylaws ceased to govern the service conditions of the Secretaries of the respective Cooperative Societies. The Hon'ble Division Bench had also indicated that amendments to the Rules are called for. Unfortunately, till date the rules have not been amended. When the common cadre did not provide for retention of the delinquent employees in service for inflicting punishment after they reach the age of superannuation, the authority will not be justified in doing so. The approach of the learned single Judge cannot be faulted. There is no merit in these writ appeals. The writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
5th August 2025

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

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W.A.(MD)NO.1174 OF 2025

G.R.SWAMINATHAN, J.

AND

K.RAJASEKAR, J.

PMU

W.A.(MD)Nos.1174, 1210 & 1253 of 2025

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