



WA(MD)No.963 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

CORAM

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HON'BLE MS.JUSTICE R.POORNIMA**

**WA(MD)No.963 of 2022
and
CMP(MD)No.7814 of 2022**

The Joint Registrar / Managing Director,
Sivagangai District Central Cooperative Bank
Limited,
Sivagangai, Sivagangai District.

... Appellant / Respondent

Vs.

R.Arumaipitchai

... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the impugned order passed by the Hon'ble Judge in WP(MD)No.6789 of 2018 dated 19.05.2022.

For Appellant : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.P.R.Prithviraj



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ORDER

Heard both sides.

2.Arumaipitchai, the respondent herein joined the Cooperative Bank as a daily wager in the year 1981. His services were regularised in the year 1998. He was promoted as Assistant and then as Assistant Manager in the year 2013. He reached the superannuation in the year 2017. Even though he was allowed to retire, his terminal benefits were withheld. Challenging the same, the respondent herein filed WP(MD)No.6789 of 2018. It was allowed vide order dated 19.05.2022 in the following terms :

“6. The Learned Counsel appearing for the petitioner submitted a letter, dated 15.06.2018, which was issued by the Deputy Registrar, where the Deputy Registrar has stated that Section 81 enquiry recommending for surcharge proceedings was withdrawn. He also submitted that there is no surcharge proceeding against the petitioner.

7. The learned Counsel appearing for the respondents submitted that the Secretary to the said Society namely B. Karnan has filed a Writ Petition in W.P. (MD) No. 9396 of 2018, challenging the Section 81 enquiry report and this Court has granted an interim stay and the writ petition is pending. Since there is a stay for Section 81 enquiry report, the respondent Society could not proceed further. In



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the meanwhile, the petitioner has attained superannuation and was allowed to retire. And also submitted that Section 81 enquiry notice alone was withdrawn and still Section 81 enquiry is pending. However, the learned Counsel appearing for the petitioner submitted that the petitioner's name was deleted from the FIR and there is no criminal case against the petitioner and there is no surcharge proceeding against the petitioner. Even the enquiry report states that the Secretary and the President had committed the mistake and the petitioner has colluded with the Secretary namely Karnan and the President, namely, Thangarasu.

8.On perusal of the said report, it is seen that the allegation is against the Secretary and the President of the Society and there is no allegation against the petitioner that he has committed the offence. The allegation against the petitioner is that the petitioner has not taken any action and failed in his duty as Manager of the Society. Rightly, in the criminal proceedings the petitioner's name was deleted in the final report. The respondents have dropped the surcharge proceeding against the petitioner.

9.Therefore, this Court is of the considered opinion that the petitioner is entitled to the benefits. Moreover, he has retired from service and now he is 62 years old. Therefore, the respondents are directed to disburse the gratuity, leave salary and other terminal benefits eligible to the petitioner. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.”

Challenging the same, this writ appeal has been filed.



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3.It is not in dispute that as on date no disciplinary proceedings are pending against the petitioner. Surcharge proceedings were also withdrawn. Though his name was included in the FIR, it was deleted in the final report. The learned counsel for the bank would contend that the enquiry report under Section 81 of the Tamil Nadu Cooperative Societies Act indicts the petitioner. In our view, that cannot be put against the petitioner and as on date, the writ petitioner's service record is clean. Therefore, there is no disqualification for receiving terminal benefits. The learned Single Judge had correctly approached the issue. Interference with the impugned order is not warranted. This writ appeal is dismissed. Connected miscellaneous petition is closed. No costs.

[G.R.S., J.] & [R.P., J.]
30.01.2025

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

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