

REV.APPLICATION WRIT 91 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.08.2025

CORAM:

THE HON'BLE DR.JUSTICE R.N.MANJULA

REV.APPLICATION WRIT 91 of 2025
in WP(MD) No.8278 of 2024

A.B.P.Rajendran

... Petitioner

Vs

1. The Regional Joint Registrar of Co-Operative Societies/
Chairman of Common Cadre Service Committee,
Sivagangai Region, Opposite to Government Ladies College,
Kangirangal, Sivagangai District.

2. The Deputy Registrar of Co-operative Societies,
Sivagangai Circle,
Opposite to Government Ladies College,
Kangirangal, Sivagangai.

3. N.N.581, Keelapasalai Primary Agricultural
Cooperative Credit Society,
Rep by its President,
Keelapasalai,
Manamadurai Taluk,
Sivagangai District.

... Respondents

Prayer: This Review Petition filed under Section 114 of C.P.C to review the order made in WP (MD) No.8276 of 2024 dated 01.04.2024 on the file of this Court to an extent of non-quashing the suspension order made in



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Na.Ka. No.1918/2022 ThoveSa, dated 22.04.2022 passed by the 1st respondent and thereby allow the subject review application.

For Petitioner : Mr.P.R.Prithiviraj

For Respondent : Mr.A.Oliraja
Government Advocate

ORDER

This Review Petition has been filed to review the order, dated 01.04.2024 made in WP (MD) No.8276 of 2024.

2.The writ petition has been filed seeking to quash the impugned suspension order passed by the first respondent to reinstate the petitioner into service with all monetary benefits.

3.The learned counsel for the petitioner submitted that this Court has not passed an order considering the entire issue involved in the petition, but only an interim order has been granted with regard to the payment of subsistence allowance. On a perusal of the interim order, it is seen that relief has been granted only in respect of payment of subsistence allowance, during the pendency of suspension. Due to clerical error, the



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interim order, has been given in the shape of final order.

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4.The learned counsel submitted that the petitioner was appointed as a Secretary in the third respondent's society on 01.07.1990 and he has discharged his duties to the satisfaction of his Superiors. A Government Order has been issued in G.O.Ms.No.14 Co-operation, Food and Consumer Protection (CNI) Department, dated 12.02.2019 and in virtue of the said Government Order, all the Primary Agricultural Co-operative Credit Society were brought under the Common Cadre Service. As per the above order, the petitioner's service will come under the supervision of the first respondent. On 22.04.2022, the petitioner was suspended from the post of Secretary on the allegation that he has failed to recover the jewel loan and milch animal loan and acted in connivance with the Computer Operator and committed dereliction of his official duty.

5.The learned counsel further submitted that neither the petitioner has been issued with a charge memo nor any subsistence allowance, as per Section 3 of Tamil Nadu Payment of Subsistence



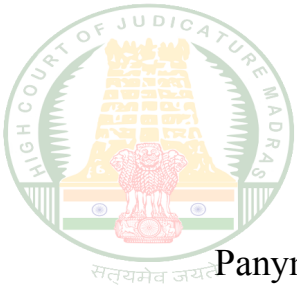
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Allowance Act, 1981. He sent a representation to the first respondent, but so far no order has been passed in this regard.

6.It is further submitted that the petitioner has attained the age of superannuation and till such time, suspension was not revoked. By citing the decision of Hon'ble ***Supreme Court***, it is claimed that the charge memo has not been furnished within a period of three months. In the instant case, no order has been passed to extend the suspension and the petitioner is simply kept under suspension till his retirement.

7.The learned Government Advocate appearing for the respondents has filed a counter and submitted that the petitioner has not preferred any appeal by challenging the order of suspension before the Additional Registrar of Society under Rule 31 of Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019 (hereinafter referred to as 'the Rules, 2019'). The petitioner cannot be reinstated into service and if it is done so, he could tamper the records and suppress the irregularities committed by him. The petitioner comes under the definition of Officer as as per Section 2(a) of the Tamil Nadu



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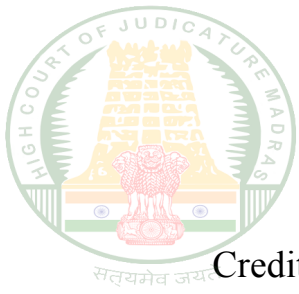
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Panymment of Subsistence Allowance Act, 1981 and the persons who are in supervisory capacity are excluded from the purview of the Act.

8.In response, the learned counsel for the petitioner submitted that in the counter of the respondents nothing has been stated about the prolonged suspension. In support of his above contention, he relied the decision of the Hon'ble Supreme Court in *Ajay kumar Choudhary* case, reported in **2015(3) CTC 119**. The petitioner said to have attained the age of superannuation on 28.02.2025 and until then charge memo has not been served upon him. The petitioner can file an appeal under Rule 31 of the Rules, 2019 only when disciplinary proceedings is initiated and completed. In the instant case, no such action has been initiated and the petitioner has been kept under suspension for years together, without any revision.

9. I have given my anxious consideration to the submissions made on either side and carefully perused the records.

10.As per Tamil Nadu Primary Agricultural Co-operative



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Credit Societies Common Cadre Service Rules, 2019, Rule 1 (2) would state that these rules shall apply to Secretaries of all Primary Agricultural Credit Societies registered or deemed to be registered under the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983). It is stated that under Rule 30(4)(i) any common cadre employee under suspension, shall be entitled to subsistence allowance as per the Tamil Nadu Payment of Subsistence Allowance Act, 1981 (Tamil Nadu Act 43 of 1981). The relevant rule is extracted hereunder:

"Rule 30(4)(i) of Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019:

A common cadre employee under suspension shall be entitled to subsistence allowance as per the Tamil Nadu Payment of Subsistence Allowance Act, 1981 (Tamil Nadu Act 43 of 1981)"

11.As the Special Rules governing the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019 is applicable to the petitioner, who is in the cadre of Secretary and who is covered under Rule 30(4)(i) and it cannot be stated that the Secretaries are not entitled to subsistence allowance during the period of suspension.



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12.It is the contention of the learned Government Advocate that as per Section 2(a) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981, the persons who are in supervisory capacity are excluded from the purview of the Act. The above provision is extracted as under:

“2. Definitions:- In this Act, unless the context otherwise requires,-

(a) “employee” means any person employed in, or in connection with the work or activities of, any establishment to do any skilled, semi-skilled or unskilled, manual, supervisory, technical, clerical or any other kind of work or activities for hire or reward, whether the terms of employment be expressed or implied, but does not include any such person-

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity 1 [draws wages exceeding fifteen thousand rupees per



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mensem] or exercises, either by the nature of the duties attached to the office or by reason of the powers vested to him, functions mainly of a managerial nature;

13.However, under Rule 30(4)(i), there is an explicit reference that Tamil Nadu Payment of Subsistence Allowance Act, 1981, that it is applicable to all the Secretaries of Primary Agricultural Co-operative Societies, who are covered under the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019 and hence, there is no confusion with regard to the entitlement of subsistence allowance for the petitioner during the period, in which, he was kept under suspension.

14.As already stated, the Apex Court has held in ***Ajay Kumar Choudhary*** case, that any suspension has to be revised, in case, it needs to be extended. As already stated in the instant case, no order has been passed to extend the suspension and the petitioner is simply kept under suspension till his retirement. He has not been given with any charge sheet in order to ensure that the disciplinary proceedings are initiated



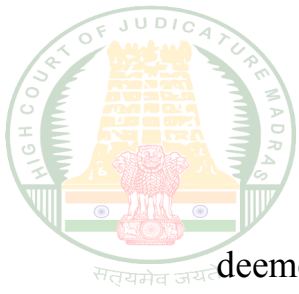
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against the petitioner in letter and spirit. The petitioner has been kept under a prolonged suspension, that too, without paying the subsistence allowance, directions has to be given to the authorities concerned to pay the petitioner's subsistence allowance for the whole period, during which time, he was kept under suspension. As the petitioner has attained the age of superannuation, it is not possible to reinstate the petitioner even though the suspension order is deemed to have been revoked in view of the dictum laid down by the Apex Court in *Ajay Kumar Choudhary's* case.

15. Though it is the submission of the learned Government Advocate that criminal charges have been pending against the petitioner, , the petitioner has not been kept under suspension in view of the pending criminal proceedings.

16. As the petitioner has been kept under suspension against the Rules and in view of the Government Order in this regard, in view of the above mistake, I feel an opportunity should be given to the petitioner to make his submission with regard to the larger extent and it is appropriate to set aside his suspension and consequently, the petitioner is



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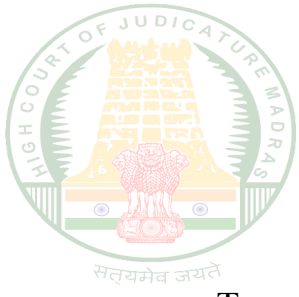
deemed to have retired from service on his attaining the age of superannuation. The respondents are directed to pass orders to this effect and allow the petitioner to get his terminal benefits.

17.If any surcharge proceedings have been initiated against the petitioner, it is upto the respondents to continue and recover the surcharge imposed against the petitioner in the manner known to law.

18.In the result, the Review Application is *allowed* and the impugned order, dated 22.04.2022 is set aside. The first respondent is directed to issue an order for allowing the petitioner to retire from service on his attaining the age of superannuation and to pass further orders for sanctioning monetary benefits, for which, the petitioner is entitled to. The above said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

04.08.2025

NCC :Yes/No
Index :Yes/No
Internet:Yes/No
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DR. R.N.MANJULA, J.

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ORDER IN

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