



W.P.(MD).No.23078 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23078 of 2024

and

W.M.P(MD) Nos.19562 and 19564 of 2024

Saravanabhavanantham

... Petitioner

Vs.

1. The Joint Registrar of Co-operatives
Ramanathapuram, Ramanathapuram District.
2. The Circle Deputy Registrar of Co-operatives
Ramanathapuram, Ramanathapuram District.
3. The Administrator,
N.N.335 Valantharavai Primary
Agriculture Co-operative Credit
Society, Valantharavai, Ramanathapuram,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.1854/2024/தொ.வே.கூ.ச, dated 19.08.2024 and quash the same and consequently directing the respondents to disburse the entire retirement benefits of the petitioner within time stipulated by this Court.



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For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a retired Secretary of the third respondent Co-operative Society, challenging the order passed by the second respondent on 19.08.2024, wherein the request of the petitioner for disbursing the terminal benefits has been rejected.

2. While the petitioner was in service, he was issued with a charge memo on 30.05.2022 and after considering his explanation, an enquiry was conducted. The enquiry report was submitted on 25.10.2022. The petitioner has submitted his further explanation on 22.02.2023. Thereafter, based upon the resolution of the Common Cadre Committee final orders were passed by the Common Cadre Authority on 04.10.2023, imposing a penalty of Rs.10,000/- on the petitioner. The petitioner has accepted the said order of punishment and the same has attained finality. In the said order, the Common Cadre Authority has directed the society to release the terminal benefits.



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3. When the petitioner approached the society for releasing the terminal benefits, the second respondent has passed the present impugned order on 19.08.2024, rejecting his request on the ground that financial loss to an extent of Rs.1,68,281/- has been found out in the inspection report conducted under Section 82 of Tamil Nadu Co-operative Societies Act. Therefore, unless the said amount is deposited with interest, the question of payment of terminal benefits would not arise. This order is put to challenge in the present writ petition.

4. According to the learned counsel appearing for the writ petitioner, in case if there is such an inspection report, it has to be followed by proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act and thereafter the said Act provides for recovery through Tamil Nadu Revenue Recovery Act. The learned counsel also relies upon judgment of the Hon'ble Division Bench of this Court in W.A.(MD) No.818 of 2024, dated 04.06.2024 to contend that when special provisions are found under Section 87 of the Act, the authorities cannot be permitted to deduct some amount from the retirement benefits of a Co-operative employee. Hence, he prayed for setting aside the said order and for disbursement of terminal benefits.



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5. Per contra, the learned Additional Government Pleader appearing for the respondents herein, relying upon the written instructions of the second respondent dated 19.08.2024 and the communication of the second respondent dated 08.10.2024 to the first respondent, contended that steps have been taken to release the terminal benefits of the writ petitioner after deducting the amount in dispute from the writ petitioner. In case, if the entire retirement benefit is released, it would be difficult for the Co-operative Society to realize the amount which was caused due to the negligence on the part of the writ petitioner.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The disciplinary proceedings that were initiated as against the writ petitioner got culminated in the final order passed by the first respondent on 04.10.2023, wherein a punishment of penalty of Rs.10,000/- has been imposed and it has reached finality. The said order also directs the concerned Society for releasing the terminal benefits. However, impugned order was



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passed by the second respondent on 19.08.2024 not to release the terminal benefits until the petitioner deposits the financial loss incurred by the Co-operative Society. However, the order impugned in the writ petition, dated 19.08.2024 has been cancelled by the same respondent by his proceedings dated 09.10.2024. However, he has recommended to the first respondent to retain the said financial loss and release the balance amount to the writ petitioner. Therefore, it is clear that the second respondent is attempting to sustain his order by recommending the same to the first respondent herein.

8. As held by the judgment of the Hon'ble Division in W.A(MD) No. 818 of 2024, dated 04.06.2024 (*The Managing Director, Co-operative Urban Bank Vs. K.Sadaiyappan and three others*), it is clear that the authorities cannot hold the terminal benefits of the retired employee for any financial loss but they have to resort to Section 87 of the Tamil Nadu Co-operative Societies Act for recovering the same wherein they can also invoke the Revenue Recovery Act. Therefore, this Court is inclined to follow the said judgment.



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9. In view of the fact that the order impugned in the writ petition has already been cancelled, the question of setting aside the said order does not arise. However, this Court is inclined to allow the consequential prayer, namely, a direction to the respondents to disburse the terminal benefits.

10. In view of the above said deliberations, the respondents are directed to release the eligible terminal benefits to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above said observation, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

24.01.2025

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