



WEB COPY



W.P.(MD).No.23569 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.23569 of 2024

and

W.M.P.(MD).Nos.19955 & 19956 of 2024

K.Subramanian

...Petitioner

-Vs-

1. The Registrar of Cooperative Societies,
O/o.The Registrar of Cooperative Societies,
No.170, N.V.Natarajan Maaligai,
E.V.R.High Road, Kilpauk,
Chennai-600 010.

2. The Joint Registrar of Cooperative Societies/
Common Cadre Authority,
O/o.The Joint Registrar of Cooperative Societies,
Tenkasi, Tenkasi District.

3. The Deputy Registrar of Cooperative Societies,
O/o.The Deputy Registrar of Cooperative Societies,
Tenkasi, Tenkasi District.

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

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order vide ந.க.3/2022/தொ.வே.ச(1) நாள் 31.05.2024 passed by the second respondent and the consequential order vide ந.க.32028/2024/தொ.வே.ச1(2) நாள் 12.09.2024 passed by the first respondent to disburse the retirement benefit such as Gratuity, Employees Provident Fund, Earned Leave Salary and all other monetary benefits payable to the petitioner.

For petitioner : Mr.D.Shanmuga Raja Sethupathi

For Respondent Nos.1 to 3 : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant writ petition has been filed by the Secretary of the fourth respondent Cooperative Society, challenging the order passed by the second respondent herein on 31.05.2024, wherein, the petitioner has been suspended from service and not permitted to retire. The petitioner has challenged the said order under Section 153 of Tamilnadu Cooperative Societies Act before the first respondent. The first respondent by his order dated 12.09.2024, has redirected the petitioner to approach the Appellate Authority under Rule.33 of TamilNadu Primary Agricultural Cooperative



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Credit Society Common Cadre Service Rules, 2019. These two orders are put to challenge in the present writ petition.

2. The petitioner who was working as the Secretary of the Cooperative Society, has attained superannuation on 31.05.2024. However, on the same day the second respondent has passed an order suspending him and not permitting him to retire from services on the ground that criminal case is pending as against the writ petitioner in Spl.C.C.No.1 of 2019 in Crime No.8 of 2016 on the file of the Special Court for Trial of Cases under the Prevention of Corruption Act, Tirunelveli District.

3. According to the learned Counsel appearing for the writ petitioner, under the TamilNadu Cooperative Primary Agricultural Cooperative Credit Society Common Cadre Service Rules, 2019, there is no specific provision for retaining an employee in service after he had attained superannuation. He further contends that there is no provision under the said rules for continuing disciplinary proceedings after the petitioner attained superannuation. The learned Counsel appearing for the writ petitioner has also relied upon decision of this Court in W.P.(MD).No.10304



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of 2024, dated 29.10.2024, and contended that there is no specific provision either under the Cooperative Societies Act or in the TamilNadu Primary Agricultural Cooperative Credit Societies Common Cadre Service Rules, 2019, for continuing the disciplinary proceedings or for retaining an employee in service. Therefore, the orders impugned are not legally sustainable.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein had relied upon Para.5 of the counter filed by the second respondent, and contended that the petitioner having been placed under suspension by the Common Cadre Authority, the petitioner has to file an appeal under Rule 31 before the appellate authority namely the Additional Registrar of Cooperative Society. Without exhausting the said alternative remedy, the petitioner has filed this present writ petition. Therefore, the present writ petition is not maintainable.

5. I have carefully considered the submissions made on either side and perused the materials available on record.



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6. The issue that arises for consideration is whether a Common Cadre Authority covered under the above said Rules could be retained in service after he had attained the age of superannuation. This issue is no longer *res integra*. This Court after referring the Division Bench Judgement of our High Court in W.A.2220 & 2466 of 2021, dated 28.09.2021, had proceeded to hold that the Common Cadre Employee cannot be retained in service after he had attained the age of superannuation. The special by laws of the concerned society are not applicable to Common Cadre Employee, since he had already been absorbed under Rule.3 of TamilNadu Primary Agricultural Cooperative Credit Societies Common Cadre Service Rules, 2019. It is an admitted fact that no disciplinary proceedings or surcharge proceedings are pending as against the writ petitioner, while he attained superannuation on 31.05.2024.

7. In view of the fact that the second respondent do no have any jurisdiction to retain the petitioner in service, this Court is inclined to pass the following orders:



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a) The orders impugned in this writ petition is hereby set aside and the petitioner shall be deemed to have retired from service with effect from 31.05.2024.

b) The terminal benefits of the writ petitioner shall be released to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above said observations, this writ petition is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

09.01.2025

Index : Yes/No
Speaking/Non-Speaking order
Neutral Citation : Yes/No
gvn



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