



W.P(MD).No.25937 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

**CORAM:
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.25937 of 2024
and WMP(MD).Nos.22002 & 22003 of 2024**

A.Krishnan

.... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies/
Common Cadre Authority
Office of the Joint Registrar of Co-operative Societies
Tenkasi Region
Tenkasi

2.The Deputy Registrar of Co-operative Societies
Office of 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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order vide Na.Ka.3/2022/Tho.Ve.Sa. Dated 30.09.2024 passed by the first respondent and quash the same and consequently direct the respondents to disburse the retirement benefit such



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as gratuity, employees provident fund and earned leave salary etc. payable to the petitioner within the time frame as fixed by this Court.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents :Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant writ petition has been filed by the Secretary of the third respondent Co-operative Society challenging the order passed by the first respondent herein wherein the petitioner has been placed under suspension and not permitted to retire on the ground that the enquiry under Section 82 of the Tamil Nadu Co-operative Societies Act is pending as against the writ petitioner.

2.According to the writ petitioner, the petitioner being a Secretary of the Primary Agricultural Co-operative Credit Society, is a Common Cadre Employee. Therefore, as per Common Cadre Service Rules, there is no provision to suspend him or retain him in service for the purpose of continuing the disciplinary proceedings. He relies upon the Division Bench judgment of this Court in ***W.A.Nos.2220 and 2466 of 2021 (S.307, Muthukalipatti Primary Agricultural Co-operative Credit***



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Ltd., Vs.V. Viswanathan and others) dated 28.09.2021 wherein this Court has held that as far as the Common Cadre Employee is concerned, there is no provision under the Common Cadre Service Rules for continuing the disciplinary proceedings beyond the date of superannuation.

3.Per contra, the learned Additional Government Pleader relying upon Paragraph Nos.8, 9 and 21 had contended that as per bylaws of the concerned society, the petitioner can be retained in service and disciplinary proceedings can be continued beyond the date of retirement. He had further contended that the petitioner can very well avail the appeal remedy before the concerned authority challenging the order of suspension as well as retention in service. He had further pointed out that Section 81 enquiry has also been initiated as against the writ petitioner. In such circumstances, in case, if the petitioner is permitted to retire, the fourth respondent would not be in a position to recover the amount.

4.I have considered the submissions made on either side and perused the material records.

5.There is no dispute that the petitioner is a Common Cadre Employee and governed by Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules 2019. The Hon'ble



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Division Bench judgment of this Court in ***W.A.Nos.2220 and 2466 of 2021 (S.307, Muthukalipatti Primary Agricultural Co-operative Credit Ltd., Vs.V. Viswanathan and others)*** dated 28.09.2021 had an occasion to consider a similar issue. The Hon'ble Division Bench has held that there is no provision under Common Cadre Service Rules to retain the service of Common Cadre Employee for the purpose of continuing the disciplinary proceedings. They further found that the Common Cadre Service Rules prevail over the bylaws of the concerned society. In such circumstances, the contention raised by the respondents in the counter affidavit touching upon the bylaws of the concerned society are not legally sustainable.

6.In view of the above said deliberations, this Court passes the following orders:

a)The order impugned in the writ petition is set aside and the petitioner shall be deemed to have attained superannuation on 30.09.2024.

b)The respondents are directed to release provident fund and earned leave salary to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.



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c)Releasing of other benefits shall depend upon the pending proceedings as against the writ petitioner.

7.With the above said observations, this writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

30.01.2025

Index : Yes/No
Internet : Yes/No
NCC: : Yes/No
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R.VIJAYAKUMAR, J.

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