



W.P.(MD) No.24635 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
07.11.2025	19.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.24635 of 2025

S.Mohamed Farook

... Petitioner

-vs-

- 1.The Commissioner
Tamil Nadu Co-operative
Milk Producers Federation Ltd.,
Avin Illam, Nandanam (Head Office)
Chennai – 600 035.
- 2.The Managing Director,
Tamil Nadu Co-operative
Milk Producers Federation Ltd.,
Avin Illam, Nandanam (Head Office)
Chennai – 600 035.
- 3.The General Manager,
Madurai District Co-operative Milk
Producers' Union Ltd.,
Sathamangalam, Madurai – 20.
- 4.The General Manager,

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Tiruchirappalli District Co-operative
Milk Producers Union Ltd.,
Kottappattu, Trichy – 23.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records of the respondent No.3, relating to charge memo dated 16.10.2024 in Na.Ka.No.11004/Pa.Ku.Tho.U.2/2024, quash the same and grant such other order(s) or relief(s) as expedient to the facts and circumstances of the matter.

For Petitioner : Mr.T.Ravichandran

For Respondents : Mr.J.Devasenar

ORDER

This Writ Petition had been filed to quash the charge memo dated 16.10.2024 issued by the third respondent and grant such other order(s) or relief(s) as expedient to the facts and circumstances of the matter.

2. Heard Mr.T.Ravichandran, the learned counsel appearing for the petitioner and Mr.J.Devasenar, learned counsel appearing for the respondents.

3. The learned counsel appearing for the petitioner would submit that the petitioner had attained the age of superannuation on 28.02.2023. By a



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proceeding dated 28.02.2023, the fourth respondent relieved the petitioner from service, but however the terminal benefits were with-held. A charge memo dated 16.10.2024 was issued by the second respondent, which was served upon the petitioner only on 29.11.2024 by the third respondent.

4. He would submit that the bye-laws of the society do not permit the initiation of disciplinary proceedings against an employee, who had superannuated from service. Relying upon the various judgments, he would contest that after the superannuation even the disciplinary proceedings that had been pending, cannot be proceeded with. He would place heavy reliance upon a Full Bench judgment of this Court in the case of ***S.Andyannan vs. The Joint Registrar, Co-operative Societies, Madurai Region, Madurai & Anr.***, reported in ***2015-3-L.W.513***, in support of his contentions by contending that the Full Bench of this Court on a reference had answered that in the absence of relevant service Rules permitting the employer to continue the disciplinary proceedings, it cannot be continued and only the proceeding under Section 87 of the Co-operative Societies Act could be continued, if the employee had caused loss to the society and therefore, he prays this Court to set aside the charge memo that had been issued to him.



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made of the judgments that had been relied upon by the petitioner particularly the Full Bench judgment of this Court by making a reference to clause 15 of the bye-law, which reads as under:-

15.Retirement when enquiry is pending:-

For persons against whom grave charges are pending, retirement benefits will be settled after the charges are disposed off in cases where an individual continues to be under suspension due to pendency of disciplinary proceedings after attaining the age of superannuation, he/she shall continue to draw the subsistence allowance subject to a minimum pension is entitled to receive, if he/she is allowed to retire normally.

9. A perusal of the aforesaid clause would indicate that in cases where an individual continues to be under suspension due to pendency of a disciplinary proceeding, such employee would be entitled for subsistence allowance subject to the minimum pension and the retirement benefits would be settled after the charges pending against him are disposed of. In the present case, the petitioner was not under suspension on the date of his superannuation nor there were any disciplinary proceedings pending against him on the said date. As admittedly a charge memo came to be issued only on



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16.10.2024. A reliance has been placed upon an amended bye-law 15, which was amended on 15.03.2023. The same reads as thus under:-

15(1) Disciplinary action after retirement:-

The disciplinary action if not instituted while the employee was in service, whether before his retirement or during his re-employment, can be made after retirement in respect of any lapse or grave misconduct, with due justification.

10. The said amended bye-law permits disciplinary action to be instituted for the delinquency of an employee during service even after his superannuation. It is pertinent to note that the said amendment came on 15.03.2023 i.e., after the date of superannuation of the petitioner. Hence, the said amended bye-law cannot be applied to the case of the petitioner. The said amended bye-law could only be prospective applying to cases where the employee is to attain the superannuation after the date of amendment namely, 15.03.2023.

11. In such view of the matter, this Court is of the considered view that the Full Bench judgment relied upon by the learned counsel appearing for the petitioner would be applicable to the facts of the present case. The Full Bench



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of this Court had answered the reference made to it in the following manner:-

30. Answer to the first question referred to this Bench:

Under the Tamil Nadu Co-operative Societies Act, 1983, once an employee retired from service, there could be no authority vested with the employer for continuing any disciplinary proceeding, in the absence of relevant service Rules permitting the employer to continue the disciplinary proceeding. In other words, if there is no service Rules or bye-law of the society empowering the employer to continue the departmental proceeding, the employer, would have no authority to continue the departmental proceeding after the retirement of the employee.

31. Answer to the second question referred to this Bench:

As contemplated under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, the term 'surcharge' is not penal in nature, hence if there is admission with regard to the loss caused by the employee or the same is established by the co-operative institution, based on the proceeding already initiated for surcharge, the same could be recovered in the manner known to law. However, the provision relating to surcharge under Section 87 of the Act is not impliedly empowering the disciplinary authority to continue any disciplinary proceeding against an employee, who retired from service, in the absence of any service Rules or Bye-law. Hence, Section 87 of the said Act cannot be construed as an enabling provision or impliedly



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empowering provision to the employer to continue any disciplinary proceeding after the retirement of any employee, in the absence of any service Rules.

Answering the questions 1 and 2 referred to this Bench, the matter is ordered to be remitted back to the Reference Court for disposal, according to law.

12. As this Court had found that as per the bye-law that was existing on the date of superannuation of the petitioner, the second respondent had been clothed with the only power to continue the disciplinary proceeding that was already pending against an employee and there is no power for initiation of a fresh proceedings against the petitioner.

13. For the aforesaid reasons, the Writ Petition stands allowed and the impugned charge memo dated 16.04.2024 stands quashed. However, there shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
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K.KUMARESH BABU, J.

Pbn

PRE-DELIVERY ORDER
IN

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